

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Amendment of Part 11 of the Commission's Rules
Regarding the Emergency Alert System
PS Docket No. 15-94

REPORT AND ORDER

Adopted: March 28, 2018

Released: April 10, 2018

By the Commission: Commissioner Rosenworcel issuing a statement.

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I. INTRODUCTION

1. In this Order, the Commission takes steps to increase the effectiveness and efficiency of the Emergency Alert System (EAS) by establishing the Alert Reporting System (ARS). The ARS will create a comprehensive online filing system for EAS by combining the existing EAS Test Reporting

System (ETRS) with a new, streamlined electronic system for the filing of State EAS Plans. ARS will replace paper-based filing requirements, minimize the burdens on State Emergency Communications Committees (SECCs), and allow the FCC, the Federal Emergency Management Agency (FEMA), and other authorized entities to better access and use up-to-date information about the EAS, thus increasing its value as a tool to protect life and property for all Americans.<sup>1</sup>

## II. BACKGROUND

### A. EAS

2. The EAS is a national public warning system used by EAS Participants to deliver emergency alerts to the public.<sup>2</sup> The primary purpose of the EAS is to allow the President of the United States (President) to “provide immediate communications and information to the general public at the National, State and Local Area levels during periods of national emergency.”<sup>3</sup> State and local authorities also use the common distribution architecture of the EAS to distribute voluntary weather-related and other emergency alerts to the public.<sup>4</sup>

3. There are two distribution methods for EAS alerts. The traditional method distributes alerts through a hierarchical, broadcast-based distribution system, in which an alert originator formats an alert using the EAS Protocol and initiates its transmission at a designated entry point.<sup>5</sup> This “daisy chain” process relays the alert from one designated station to another until it is fully distributed.<sup>6</sup> EAS alerts also are distributed over the Internet through the Integrated Public Alert and Warning System (IPAWS), a national alerting system administered by FEMA.<sup>7</sup> Under the IPAWS, EAS Participants monitor a FEMA-administered web site for EAS messages that are written in the Common Alerting Protocol (CAP).<sup>8</sup>

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<sup>1</sup> This *Order* addresses issues raised in the Commission’s January 29, 2016, *Notice of Proposed Rulemaking*. See *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System, Wireless Emergency Alerts*, PS Docket Nos. 15-94 and 15-91, Notice of Proposed Rulemaking, 31 FCC Rcd 594 (2016) (*Notice*). The *Notice* proposals fell into four categories: (1) improving alerting organization at the state and local levels; (2) building effective public safety exercises; (3) ensuring that alerting mechanisms leverage advancements in technology; and (4) securing the EAS against accidental misuse and malicious intrusion. This *Order* addresses the first of these categories. The Commission will address the remaining categories in a subsequent item.

<sup>2</sup> See 47 CFR § 11 *et seq.*; *Review of the Emergency Alert System*, EB Docket No. 04-296, Sixth Report and Order, 30 FCC Rcd 6520 (2015) (*Sixth Report and Order*). EAS Participants include radio and television broadcast stations, cable systems, wireline video systems, wireless cable systems, direct broadcast satellite service providers, and digital audio radio service providers. See 47 CFR § 11.11(a).

<sup>3</sup> 47 CFR § 11.1. See *Review of the Emergency Alert System*, EB Docket No. 04-296, First Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 18625, 18628, para. 8 (2005) (*First Report and Order*). The FCC, the Federal Emergency Management Agency (FEMA), and the National Weather Service (NWS) implement the EAS at the federal level. See Presidential Communications with the General Public During Periods of National Emergency, The White House (September 15, 1995).

<sup>4</sup> Although EAS Participants are required to broadcast Presidential Alerts, they participate in broadcasting state and local EAS alerts on a voluntary basis. See 47 CFR § 11.55(a); *First Report and Order*, 20 FCC Rcd at 18628, para. 8. See Communications Security, Reliability and Interoperability Council IV, Working Group Three, Emergency Alert System, State EAS Plans Subcommittee, Final Report at 14 (March 2014), [https://transition.fcc.gov/pshs/advisory/csric4/CSRIC\\_IV\\_WG3\\_EAS\\_Plans\\_Final\\_Report\\_032514.pdf](https://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG3_EAS_Plans_Final_Report_032514.pdf) (*CSRIC EAS State Plan Report*).

<sup>5</sup> See 47 CFR § 11.31.

<sup>6</sup> See *Review of the Emergency Alert System*, Fifth Report and Order, 27 FCC Rcd 642, 646-47, para. 7 (2012) (*Fifth Report and Order*).

<sup>7</sup> FEMA, *Integrated Public Alert & Warning System*, <https://www.fema.gov/integrated-public-alert-warning-system> (last visited Nov. 8, 2017). The Commission’s alerting rules require EAS Participants to be able to receive alerts from both IPAWS and the broadcast-based EAS structure. See 47 CFR §§ 11.51(d), 11.56(a).

4. While IPAWS relies upon the centralized distribution of alerts using an alert aggregator and an Internet-based interface, the EAS's "daisy chain" leverages the broadcast-based EAS distribution architectures in each of the states.<sup>9</sup> The Commission's rules require each state to file a State EAS Plan with the Commission documenting its EAS distribution architecture.<sup>10</sup> State Emergency Communications Committees (SECCs), along with associated Local Emergency Communications Committees (LECCs), draft and file these plans on behalf of the states.<sup>11</sup> The SECCs and LECCs are volunteer organizations composed of state broadcast associations, EAS Participants, emergency management personnel, and other stakeholders.<sup>12</sup> SECCs grew out of a 1963 Executive Order that directed the Commission to cooperate with other governmental entities to develop emergency communications plans related to the Emergency Broadcast System (EBS).<sup>13</sup> At that time, the Commission provided SECCs with templates for State EAS Plans that described the kinds of information that their plans should provide.<sup>14</sup>

## B. Recent Developments

5. *Nationwide EAS Tests.* On September 28, 2016 and September 27, 2017, FEMA, in collaboration with the Commission, conducted the second and third nationwide tests of the EAS, respectively.<sup>15</sup> The purpose of the tests was to assess the reliability and effectiveness of the EAS, with a particular emphasis on testing IPAWS.<sup>16</sup> On April 21, 2017, the Public Safety and Homeland Security Bureau (PSHSB) released a public version of the second test's results, which indicated that although the test had satisfied its primary purposes, there remained "strong evidence that many test participants do not understand their roles in the EAS structure and are unfamiliar with the State EAS Plans that inform them

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<sup>8</sup> See FEMA, *Integrated Public Alert & Warning System Open Platform for Emergency Networks*, <https://www.fema.gov/integrated-public-alert-warning-system-open-platform-emergency-networks> (last visited Nov. 8, 2017); see also 47 CFR § 11.56.

<sup>9</sup> See 47 CFR §§ 11.18, 11.20, 11.52, 11.54-55. The term "state" includes the District of Columbia and the United States' territories and other possessions. 47 U.S.C. § 153(47).

<sup>10</sup> See 47 CFR § 11.21; *Public Safety and Homeland Security Bureau Encourages State Emergency Communications Committees to Review and Amend State Emergency Alert System Plans to Ensure Up-To-Date EAS Monitoring Assignments*, Public Notice, 28 FCC Rcd 6239, 6239-40 (2013).

<sup>11</sup> See *Notice*, 31 FCC Rcd at 599-600, para. 8.

<sup>12</sup> See *Notice*, 31 FCC Rcd at 595, para. 2 n.3.

<sup>13</sup> Assigning Emergency Preparedness Functions to the Federal Communications Commission, Exec. Order No. 11092, 28 Fed. Reg. 1847 (1963) (Exec. Order 11092). The FCC signed a subsequent Memorandum of Understanding to promote efforts to develop state and local plans for voluntary use of the EBS for local disasters. FCC, NWS, Defense Civil Preparedness Agency, National Industry Advisory Committee, *Plan for Nationwide Use of the Emergency Broadcast System for State and Local Emergencies* (June 28, 1976) (*Plan for Nationwide Use of the EBS*). See also *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Report and Order and Further Notice of Proposed Rulemaking, 10 FCC Rcd 1786 1834-35, paras. 132-35 (1994) (*EAS Deployment Order*), *recons. granted in part, denied in part, Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Memorandum Opinion and Order, 10 FCC Rcd 11494 (1995), (communicating new expectations for SECC organization and governance).

<sup>14</sup> See *Plan for Nationwide Use of the EBS* at 12. LECCs had essentially the same responsibilities as SECCs for the local areas in which they operated. See *id.*

<sup>15</sup> The first nationwide EAS test was conducted in 2011. See Public Safety & Homeland Security Bureau, *Strengthening the Emergency Alert System (EAS): Lessons Learned from the Nationwide EAS Test* (2013) [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-320152A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-320152A1.pdf) (2013 *EAS Nationwide Test Report*).

<sup>16</sup> See *Public Safety and Homeland Security Bureau Announces Nationwide Test of the Emergency Alert System on September 28, 2016*, Public Notice, 31 FCC Rcd 7664 (2016); *Public Safety and Homeland Security Bureau Reminds EAS Participants of Upcoming Dates and Deadlines Related to the 2017 Nationwide EAS Test*, Public Notice, 32 FCC Rcd 6554 (2017).

of those roles.”<sup>17</sup>

6. *EAS Test Reporting System (ETRS)*. In connection with the test, the Commission launched the ETRS, an electronic filing system and related database that upgraded the system the Commission used for the first nationwide EAS test.<sup>18</sup> ETRS requires “EAS Participants to submit detailed information regarding their receipt and propagation, if applicable, of the alert code, including an explanation of any complications in receiving and propagating the code.”<sup>19</sup> The ETRS enables the Commission to maintain a centralized database of all EAS monitoring assignments and alert distribution pathways.<sup>20</sup>

### III. DISCUSSION

#### A. Improving Alerting Organization at the State and Local Levels

##### 1. Online State EAS Plan Filing in the Alert Reporting System

###### a. Background

7. State EAS Plans must describe state and local EAS operations and “contain guidelines which must be followed by EAS Participants’ personnel, emergency officials, and [NWS] personnel to activate the EAS.”<sup>21</sup> State EAS Plans must be reviewed and approved by the Chief, PSHSB, prior to their implementation “to ensure that they are consistent with national plans, FCC regulations, and EAS operation.”<sup>22</sup>

8. Following the first nationwide EAS test in 2011, PSHSB recommended converting the State EAS Plan filing process into an online system in light of inconsistencies identified in a post-test analysis of the structure of State EAS Plans.<sup>23</sup> Subsequently, the Communications Security, Reliability and Interoperability Council (CSRIC) IV recommended that State EAS Plans also be filed online and recommended that the Commission revise its rules to adopt an online platform, State EAS Plan template design, and identification mechanisms for facilities and geographic areas contained within State EAS Plans.<sup>24</sup> In the *Notice*, the Commission noted the CSRIC’s recommendations and proposed converting the paper-based filing process for State EAS Plans into a secure online process that would interface with the ETRS.

###### b. Discussion

9. *Online Filing*. We revise our Part 11 EAS rules to require SECCs to file State EAS Plans

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<sup>17</sup> See Public Safety & Homeland Security Bureau, Report: September 28, 2016 Nationwide EAS Test (PSHSB 2016) at 3, 9, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344518A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344518A1.pdf).

<sup>18</sup> *Public Safety and Homeland Security Bureau Launches EAS Test Reporting System (ETRS) and Seeks Comment on EAS Operating Handbook Recommendations*, PS Docket No. 15-94, Public Notice, 31 FCC Rcd 7100 (PSHSB 2016).

<sup>19</sup> *Sixth Report and Order*, 30 FCC Rcd at 6532, para. 25; see 47 CFR § 11.61(a)(3)(iv).

<sup>20</sup> See *Sixth Report and Order*, 30 FCC Rcd at 6533, para. 27; see 47 CFR § 11.21(c).

<sup>21</sup> 47 CFR § 11.21.

<sup>22</sup> 47 CFR § 11.21.

<sup>23</sup> *2013 EAS Nationwide Test Report* at 17.

<sup>24</sup> See Communications Security, Reliability and Interoperability Council IV, Working Group Three, Emergency Alert System, State EAS Plans Subcommittee, Final Report at 14 (March 2014), [https://transition.fcc.gov/pshs/advisory/csric4/CSRIC\\_IV\\_WG3\\_EAS\\_Plans\\_Final\\_Report\\_032514.pdf](https://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG3_EAS_Plans_Final_Report_032514.pdf) at 12-13, 20 (*CSRIC EAS State Plan Report*). CSRIC is a federal advisory committee charged with providing recommendations to the FCC to ensure, among other things, the reliability of communications systems, including public safety systems. See 5 U.S.C. App. 2 § 10.

electronically via an online filing system. This will provide a baseline level of uniformity across State EAS Plans, in terms of both format and terminology, while affording sufficient flexibility to accommodate filers' unique needs. This online State EAS filing platform, combined with the existing ETRS, will form the Alert Reporting System.<sup>25</sup> We believe the ARS will ensure more efficient and effective delivery of Presidential as well as state, local and weather-related alerts as it will provide the Commission, FEMA, and other authorized entities with the means to more easily review and identify gaps in the EAS architectures, detect problems, and take measures to address these shortcomings.

10. We agree with the many commenters that note the benefits of the online filing system.<sup>26</sup> For example, broadcast engineer Sean Donelan (Donelan) states that a well-implemented electronic filing system for EAS data will reduce the burden on state and local EAS committee volunteers.<sup>27</sup> Use of an online filing system will also benefit EAS Participants, SECCs, and other EAS stakeholders by facilitating the Commission's swift and efficient review of State EAS Plans.<sup>28</sup> As the Washington State SECC notes, a standardized filing system "is long overdue" and will aid the Commission's effort to review State EAS Plans.<sup>29</sup> We believe, as does Wisconsin SECC Broadcast Chair Gary Timm, commenting in his individual capacity (Timm), that the time required for SECCs to fill out a monitoring matrix would be minimal, and that other FCC databases could help keep the information updated.<sup>30</sup> The online filing system will be an efficient tool for reviewing alerting architecture, as it will provide an end-to-end picture of the EAS distribution architecture for each state. Further, cross-referencing data from electronically filed State EAS Plans with data collected from the ETRS will make it easier to identify problems such as single points of failure.<sup>31</sup> Finally, moving to an online system will reduce burdens on SECCs by pre-populating data fields in State EAS Plans with information from other FCC databases, enabling SECCs to readily update and revise their plans.

11. We believe that the efficient and effective administration of the EAS, i.e., its ability to deliver a Presidential Alert nationwide, requires some level of standardization of State EAS Plans. State EAS Plans currently lack consistent structure and content.<sup>32</sup> An online filing system using uniform and consistent terminology will facilitate the input, analysis, and related uses of the Plan information. During the first nationwide EAS test, a lack of uniformity among State EAS Plans "made it very difficult for the Commission and FEMA to create a national propagation map."<sup>33</sup> Similarly, we agree with CSRIC IV that the lack of uniform format in State EAS Plans "makes it difficult for the FCC to determine if a proper

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<sup>25</sup> See *Notice*, 31 FCC Rcd at 610, para. 25. The *Notice* referred to the proposed filing mechanism as the State EAS Plan Filing Interface (SEPFI). We adopt many of the elements proposed for the SEPFI, but also conclude that by integrating the State EAS Plan filing mechanism with the pre-existing ETRS into a comprehensive ARS, we will enhance the convenience of online filing and promote the organization and consolidation of online EAS data.

<sup>26</sup> See Alaska Commenters Comments at 17; Donelan Comments at 9; see NSBA Comments at 15-6; TAB Comments at 4; Timm Comments at 30; Washington State SECC Comments at 1-2, 11, 12; Zeigler Comments at 1.

<sup>27</sup> Donelan Comments at 9.

<sup>28</sup> See NSBA Comments at 7-8; Washington State SECC Comments at 1; Zeigler Comments at 1; see also 47 CFR § 11.21 (noting that State EAS Plans are reviewed and approved by the Chief of PSHSB).

<sup>29</sup> Washington State SECC Comments at 1-2; *id.* at 12 (noting that standardization of federal aspects of State EAS Plans is desirable, but SECCs should structure and format other aspects); see Donelan Comments at 9 (observing that a well-implemented electronic filing system will reduce the burden on state and local volunteers); TAB Comments at 4 (opining that moving plans online will make it easier for EAS Participants to follow the rules).

<sup>30</sup> Timm Comments at 6; see Zeigler Comments at 1.

<sup>31</sup> *Cf.* Timm Comments at 6.

<sup>32</sup> See *CSRIC EAS State Plan Report* at 11; see also *2013 EAS Nationwide Test Report* at 17.

<sup>33</sup> *2013 EAS Nationwide Test Report* at 17.

distribution network exists for . . . distribution [of the Presidential Alert] in each state.”<sup>34</sup> Further, an online State EAS Plan filing system with consistent terminology and format will allow SECCs to “report changes to state plans and EAS EAN Event Code distribution in the least demanding and most efficient manner possible that still provides the Commission with current and accurate information.”<sup>35</sup>

12. *Template.* We require State EAS Plan data to be entered into a pre-configured online template.<sup>36</sup> As we discuss below, it is designed to be minimally burdensome, secure, and to offer clear guidance to SECCs.<sup>37</sup> The template will standardize monitoring and other common elements of EAS State Plans, while offering sufficient flexibility to avoid SECCs’ concerns that a “one size fits all” template for State EAS Plans would be unworkable.<sup>38</sup> It will address all elements of State EAS Plans, including a monitoring assignment matrix similar to the one used by the Washington State SECC and supported by commenters,<sup>39</sup> so that SECCs may input monitoring data into the ARS in a structured and consistent manner. Where feasible, we will ensure that this matrix and other parts of the template will pre-populate elements of State EAS Plans by cross-referencing data already collected by the Commission, as recommended by CSRIC IV.<sup>40</sup> We direct PSHSB to develop and implement the template in Appendix D to include these functionalities and to minimize unnecessary and redundant filing burdens on SECCs.

13. The Commission traditionally has provided SECCs with templates describing the kinds of information to be included in State EAS Plans,<sup>41</sup> and the template we adopt today is consistent with that practice. To be both effective and minimally burdensome, the State EAS Plan template must address all state plan elements. We thus disagree with suggestions that the online database and template apply only to the monitoring assignment matrix,<sup>42</sup> or to what some commenters characterize as the “federal” aspects of State EAS Plans.<sup>43</sup> State EAS Plans are not limited to monitoring assignment data, but rather include other elements which, taken together, form the EAS activation guidelines that EAS stakeholders follow.<sup>44</sup> Similarly, the use and testing of the EAS at the state and local level provide insight into its

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<sup>34</sup> *CSRIC EAS State Plan Report* at 11.

<sup>35</sup> *See CSRIC EAS State Plan Report* at 20.

<sup>36</sup> This template is attached hereto as Appendix D. This template is an information collection subject to the Paperwork Reduction Act (PRA). As such, it will be submitted to the Office of Management and Budget (OMB) for review. OMB, the general public, and other federal agencies will be invited to comment on this template.

<sup>37</sup> NSBA Comments at 7; *see* Alaska Commenters Comments at 14 (noting that a matrix would be useful, but that states should have flexibility to articulate other elements in the base plan and appendices as necessary).

<sup>38</sup> *See* Abbott Comments at 17 (remarking that not every emergency agency uses a CAP origination product, and not all EAS activations are made by a single state agency); *see also* Brouder Comments at 4; TAB Comments at 5 (opining that it will be nearly impossible to create a standard plan); Washington State SECC Comments at 10-12 (suggesting that the Commission should provide an EAS checklist for State EAS Plans); Wireless RERC and GIT’s CACP Comments at 3 (noting that a template for states should be a guidance tool).

<sup>39</sup> *See, e.g.,* Alaska Commenters Comments at 14 (supporting the proposed matrix as useful if accompanied with flexibility); Zeigler Comments at 1 (recommending adoption of the Washington state plan structure with added flexibility).

<sup>40</sup> *See* Rudman Comments at 9. The ARS will include means to correct inaccuracies in the State EAS Plan data. *See* Zeigler Comments at 1.

<sup>41</sup> *See Plan for Nationwide Use of the EBS* at 12; *see also EAS Deployment Order*, 10 FCC Rcd at 1835, paras. 134-35 (listing elements that should be included in State EAS Plans).

<sup>42</sup> Timm Comments at 6-7, 9; *see* Rudman Comments at 8.

<sup>43</sup> Washington State SECC Comments at 12; *see* Timm Comments at 13.

<sup>44</sup> *See* 47 CFR § 11.21.

functionality and effectiveness at the federal level.<sup>45</sup>

14. Finally, we disagree with commenters who suggest that a State EAS Plan template is unworkable because there is no “one size fits all” framework for State EAS Plans.<sup>46</sup> The template will afford SECCs flexibility to provide information they deem relevant to design and maintain their states’ EAS distribution architectures and relay networks. It will be configured in a manner that accommodates variations in state alerting architectures, including areas where alerts are transmitted across state borders.<sup>47</sup>

15. *Access.* We agree with commenters that State EAS Plan information concerning the placement of broadcast towers and other vital alert distribution architecture infrastructure is sensitive, particularly when aggregated with similar information from other states.<sup>48</sup> Accordingly, we adopt safeguards to ensure only authorized entities access this data. We require SECCs to provide an SECC ID, an individual user ID, and a password to input State EAS Plan data into the ARS.<sup>49</sup> Commenters generally support limiting access to State EAS Plans filed in this manner.<sup>50</sup> NSBA observes that the security risks of aggregating State EAS Plans online justify the use of password or log-in protection.<sup>51</sup> Further, the Alaska Broadcasters Association, Alaska State Emergency Communications Committee, and the State of Alaska Department of Military and Veterans Affairs, the Division of Homeland Security and Emergency Management (Alaska Commenters) assert that online data that includes specific station and equipment information (e.g., make, model, manufacturer, and firmware versions of the encoder, decoder, and translator equipment) should be considered sensitive and protected from disclosure as necessary.<sup>52</sup> To address these concerns, we adopt CSRIC IV’s recommendation to follow the Disaster Information Reporting System (DIRS) two-layer access model.<sup>53</sup> This model will require a user to input both an SECC ID and an individual user ID before accessing the database. We agree with the Alaska Commenters that, similar to DIRS and ETRS, the Commission should handle user and account management for this system, and we direct PSHSB to determine the details of designing and setting up ARS account management.<sup>54</sup>

16. Several commenters provide useful suggestions about access to State EAS Plan data that

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<sup>45</sup> See *CSRIC EAS State Plan Report* at 14.

<sup>46</sup> Abbott Comments at 13; Brouder Comments at 3; Timm Comments at 6-7; *CSRIC EAS State Plan Report* at 11.

<sup>47</sup> See Abbott Comments at 13; Monroe Comments at 4; NSBA Comments at 7.

<sup>48</sup> See, e.g., Abbott Comments at 14, 19; Alaska Commenters Comments at 1; NSBA Comments at 8.

<sup>49</sup> See TAB Comments at 5; see also Zeigler Comments at 1.

<sup>50</sup> See *Notice*, 31 FCC Rcd at 612-13, paras. 30-31; see also Abbott Comments at 14, 19; Alaska Commenters Comments at 1-2; Brouder Comments at 4; Evans Comments at 1; NSBA Comments at 8; TAB Comments at 5; Zeigler Comments at 3. *But see* Letter from Megan Anne Stull, Counsel, Google, Inc. to Marlene H. Dortch, Secretary, FCC at 1 (May 12, 2016) (on file in PS Docket Nos. 15-94 and 15-91) (noting that greater accessibility would ease EAS participation by new entrants).

<sup>51</sup> NSBA Comments at 8. Several commenters specifically express concern that aggregated State EAS Plan data may be an attractive target for malicious persons seeking access to valuable aggregated data about the national communications infrastructure. See Abbott Comments at 19; Brouder Comments at 4; see also Zeigler Comments at 1, 3 (noting that any FEMA IPAWS information included in State EAS Plans should be available only to SECCs).

<sup>52</sup> Alaska Commenters Comments at 1.

<sup>53</sup> *Notice*, 31 FCC Rcd at 612, para. 30 (citing *CSRIC EAS State Plan Report* at 13). DIRS is a voluntary, web-based system used to report communications infrastructure status and situational awareness information during times of crisis. To access the DIRS database, a user must provide a user ID and a password. See FCC, *Disaster Information Reporting System – Login*, <https://www.fcc.gov/nors/disaster/Login.cfm> (last visited Nov. 8, 2017).

<sup>54</sup> Alaska Commenters Comments at 18.

we adopt as elements of ARS access. We agree with Nevada SECC Chairwoman Adrienne Abbott, commenting in her individual capacity (Abbott), that only individuals with significant roles in SECCs should have access to this data, and, further, that such access should be limited to data about an SECC's individual state.<sup>55</sup> We disagree with Monroe Electronics, however, that EAS equipment manufacturers and planning consultants should have access to State EAS Plan data to confirm proper configuration of system hardware and software.<sup>56</sup> As noted above, the ARS will contain sensitive data and, for this reason, we believe it serves the public interest to limit access to the ARS. EAS equipment manufacturers and other third party vendors may request a particular client's data from that client.<sup>57</sup>

17. *Confidentiality.* Finally, we afford confidentiality protection to State EAS Plan data.<sup>58</sup> Most commenters agree that some of the information in State EAS Plans, such as the call signs and locations of key EAS sources, is sensitive or could become sensitive if aggregated in a single location.<sup>59</sup> We note that details regarding equipment configurations, EAS equipment vendor market share, and relationships between EAS Participants themselves could be commercially sensitive. Aggregated information in State EAS Plans, such as configurations and vulnerabilities as demonstrated by tests, could also implicate national security.<sup>60</sup> Further, nothing in the record indicates a need for public access to State EAS Plan information. Accordingly, we conclude that State EAS Plan data and any aggregation of such data will have the same level of confidentiality as data filed in the ETRS, i.e., the Commission will share individual and aggregated data on a confidential basis with other federal agencies and state governmental emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act (FOIA).<sup>61</sup> We note that some SECCs may be subject to state-based requirements that require disclosure of some or all of the same data that it will file in the ARS.<sup>62</sup> Although the rules we adopt today will prevent unauthorized State EAS Plan data disclosure filed by an SECC via ARS, the rules will not prevent or preclude SECCs from independently filing with its state the

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<sup>55</sup> Abbott Comments at 18; *see* Zeigler Comments at 1. Abbott also notes that not every SECC Chair has access to the ETRS. Abbott Comments at 13.

<sup>56</sup> Monroe Comments at 3 (stating that it must access State EAS Plans regularly to provide essential customer support and conduct advisory functions).

<sup>57</sup> We also note that we may provide anonymized, aggregated reports of ARS data to the extent we believe doing so may serve the public interest. This is consistent with previous Commission action. *See, e.g., Sixth Report and Order*, 30 FCC Rcd at 6536, para. 32.

<sup>58</sup> *See Notice*, 31 FCC Rcd at 612, para. 31. FOIA Exemption 4 protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552(b)(4); *see MSNBC Interactive News, LLC Request for Inspection of Records*, Memorandum Opinion and Order, 23 FCC Rcd 14518, 14523-27, paras. 11-17 (2008) (noting that FOIA Exemption 4 protects other governmental interests, such as the protection of sensitive information regarding critical infrastructure and key resources).

<sup>59</sup> *See, e.g.,* Alaska Commenters Comments at 1-2; *see also Notice*, 31 FCC Rcd at 612-13, para. 31. *But see* Donelan Comments at 49 (stating that "State...plans ... should be public and include information [on] how the public and participants can validate alerts.").

<sup>60</sup> *See* Brouder Comments at 4 (noting that the New Hampshire EAS Plan includes phone numbers, frequencies, and transmitter locations that it treats as confidential); Donelan Comments at 49 (asserting that certain operational details, such as passwords used by governmental officials and specific tactical details, should be confidential); *see also* Abbott Comments at 13; NSBA Comments at 7-8 (recognizing a need to adequately address "the security risks of placing sensitive information online"); Zeigler Comments at 1 (noting that access should be limited to SECCs if the plans include FEMA IPAWS information).

<sup>61</sup> *Notice*, 31 FCC Rcd at 612-13, para. 31; *see Sixth Report and Order*, 30 FCC Rcd at 6533 n.90 (citing 5 U.S.C. § 552 (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524 (stating the FOIA confidentiality standard, along with relevant exemptions)). No commenter in this proceeding objected to this sharing of data with other agencies.

<sup>62</sup> *See, e.g.,* Washington State SECC Comments at 13.

same data that it files with the ARS.

## 2. EAS Designations

### a. Background

18. The Commission's part 11 rules provide designations for "key EAS sources."<sup>63</sup> In the *Notice*, the Commission observed that SECCs have inconsistently used these designations.<sup>64</sup> This inconsistency inhibits the Commission's ability to determine the quality of the state and national level broadcast-based EAS, and may inhibit delivery of a Presidential Alert.<sup>65</sup> Accordingly, the Commission proposed refining its EAS designations in a way that would accommodate variations in but also promote uniformity among State EAS Plans.<sup>66</sup> The Commission also sought comment on whether additional designations may be necessary.<sup>67</sup>

### b. Discussion

19. We amend Section 11.18 to define all our current EAS designations. Although SECCs' use of EAS designations may vary, commenters support retaining the current designations to support the SECCs' abilities to assign roles and responsibilities.<sup>68</sup> Accordingly, we keep these designations as tools to help SECCs describe their states' EAS alert distribution hierarchies in their State EAS Plans "using common language."<sup>69</sup> These universal designations also will allow the Commission to create an EAS Mapbook as contemplated by the EAS rules.<sup>70</sup> The Mapbook will provide an accurate and dynamic nationwide propagation map for the Presidential Alert, as well as state, county, and local propagation maps.<sup>71</sup> We agree with Abbott that it would be difficult to implement standardized terminology if our definitions did not provide sufficient flexibility to accommodate states' varying approaches to establishing EAS monitoring assignments.<sup>72</sup> However, the EAS designation definitions we adopt today are designed to provide a level of uniformity that will allow SECCs to establish EAS monitoring assignments that accommodate their unique situations. Accordingly, we will define the EAS designations as follows.

20. **Primary Entry Point (PEP):** A private or commercial radio broadcast station that cooperatively participates with FEMA to provide EAS alerts to the public. PEPs are the primary source of initial broadcast for a Presidential Alert. A PEP is equipped with back-up communications equipment and power generators designed to enable it to continue broadcasting information to the public during and after disasters of national significance. The PEP System is a nationwide network of such broadcast

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<sup>63</sup> See 47 CFR § 11.21; see also 47 CFR § 11.2 (defining "Primary Entry Point (PEP) System," "National Primary," "State Primary," and "Local Primary One"); 47 CFR § 11.18 (defining "State Relay," "Local Primary," and "Participating National"); 47 CFR § 11.20 (defining "State Relay Network").

<sup>64</sup> *Notice*, 31 FCC Rcd at 606-07, para. 16, n. 64.

<sup>65</sup> *Notice*, 31 FCC Rcd at 606-07, para. 16.

<sup>66</sup> *Notice*, 31 FCC Rcd at 607-09, paras. 17-22.

<sup>67</sup> *Notice*, 31 FCC Rcd at 607-08, paras. 18, 22; see *EAS Deployment Order*, 10 FCC Rcd at 1833, para. 129.

<sup>68</sup> See Alaska Commenters Comments at 14; Brouder Comments at 2-3; see also Abbott Comments at 7; Timm Comments at 4; NSBA Comments at 3.

<sup>69</sup> See Washington State SECC Comments at 5; see also Brouder Comments at 1; NYCEM Comments at 2.

<sup>70</sup> See 47 CFR § 11.21(c).

<sup>71</sup> See 47 CFR § 11.21(c).

<sup>72</sup> See, e.g., Abbott Comments at 7.

stations used to distribute EAS alerts formatted in the EAS Protocol.<sup>73</sup> FEMA is responsible for designating broadcast stations as PEPs.

21. **National Primary (NP):** An entity tasked with the primary responsibility of receiving the Presidential Alert from a PEP and delivering it to an individual state or portion of a state. In states without a PEP, the NP is responsible for receiving the Presidential Alert from an out-of-state PEP and transmitting it to the public and other EAS Participants in the state. Multiple entities may be charged with primary responsibility for delivering the Presidential Alert.<sup>74</sup>

22. PEP and NP are the only designations that are solely relevant to the transmission of the Presidential Alert.

23. **State Primary (SP):** An entity tasked with initiating the delivery of EAS alerts other than the Presidential Alert.<sup>75</sup>

24. SPs may, for example, be designated by SECCs to initially transmit AMBER alerts or alerts related to incidents of severe weather to the public and to other EAS Participants that voluntarily monitor for and retransmit such alerts.

25. **Local Primary (LP):** An entity that serves as a monitoring assignment for other EAS Participants within the state.<sup>76</sup> LP sources may be assigned numbers (e.g., LP-1, LP-2) and are relied on as monitoring sources by other EAS Participants in the local area. An LP may monitor any other station, including another LP, so long as doing so avoids creating a single point of failure in the alert distribution hierarchy.

26. **Participating National (PN):** An EAS Participant that transmits national, state, or local area EAS messages, and is not otherwise designated within the State EAS Plan.

27. **State Relay (SR):** An entity not otherwise designated that is charged with retransmitting EAS alerts for the purpose of being monitored by an LP or PN.

28. Commenters assert that SR properly describes the relay function and is used extensively in some State EAS Plans.<sup>77</sup> While we anticipate that the EAS alert distribution hierarchy described above will be sufficient to define the roles and responsibilities for all EAS Participants in many states,<sup>78</sup> in some states, SRs may be necessary to ensure that EAS alerts are available to everyone in the state.<sup>79</sup> In these instances, especially when SRs are used as alternative monitoring assignments, we recognize that it may be appropriate to use special designations for entities responsible for relaying alerts from a PEP, NP, or SP to an LP or PN.

29. **State Relay Network (SRN):** A network composed of State Relay (SR) sources, leased common carrier communications facilities or any other available communication facilities. The network distributes State EAS messages originated by the Governor or designated official. In addition to EAS monitoring, satellites, microwave, FM subcarrier or any other communications technology may be used to

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<sup>73</sup> See FEMA, *Primary Entry Point Stations*, <https://www.fema.gov/primary-entry-point-stations> (last visited Nov. 8, 2017).

<sup>74</sup> See, e.g., TAB Comments at 1 (“[A] single NP source . . . will not work for Tennessee.”).

<sup>75</sup> A PEP or NP may also be an SP, but should be designated separately as such in a State EAS Plan.

<sup>76</sup> For the purpose of a State EAS Plan, we assume that all PEPs, SPs, and NPs are also LPs.

<sup>77</sup> Timm Comments at 1-2; NSBA Comments at 4; *accord* TAB Comments at 1.

<sup>78</sup> As SECCs structure their State EAS Plans, however, we caution that each retransmission of an alert implicates additional latencies and opportunities for signal degradation or malicious intrusion. According to the TAB, “[t]he more links, the worse the system operates.” TAB Comments at 1.

<sup>79</sup> See, e.g., Timm Comments at 1-2.

distribute State emergency messages.<sup>80</sup>

30. We understand that in some states, such as Washington, the SRN serves as an alternative, redundant system for ensuring the successful delivery of EAS alerts.<sup>81</sup> We also understand that some State EAS Plans, such as Nevada's, do not rely on SRNs because "[s]mall and rural broadcasters cannot afford the monthly cost of these services."<sup>82</sup> To the extent that SRNs enhance system reliability and resiliency, we find them to be desirable, and encourage SECCs to specify in their state plans the extent to which they rely on SRNs as a secondary alert distribution mechanism. We do not require any state to utilize a SRN, because we recognize the maintenance burdens that SRNs may pose for small entities.

31. We agree with commenters that additional EAS designations are unnecessary<sup>83</sup> and therefore decline to adopt the additional designations or sub-designations proposed in the *Notice* based on the entities responsible for particular types of alerts (e.g., State AMBER Alert Primary) or based on the type of transmission facility used (e.g., State Satellite Primary).<sup>84</sup> We will continue to monitor whether establishing additional roles and responsibilities within State EAS Plans may be necessary in the future to improve emergency preparedness.

### 3. State EAS Plan Contents

#### a. Background

32. EAS Participants must conduct EAS operations as specified in State EAS Plans to ensure effective delivery of the Presidential Alert,<sup>85</sup> yet EAS Participants lack consistent knowledge of their roles under State EAS Plans, and State EAS Plans lack the uniformity essential for dependable dissemination of a Presidential Alert.<sup>86</sup> The *EAS Deployment Report and Order* communicated expectations for the structure and administration of State EAS Plans and SECCs, but current State EAS Plan rules do not consistently address SECCs' administration and governance practices.<sup>87</sup> Some states' SECCs and State EAS Plans have not met the Commission's expectations for several reasons, including the failure of some states to file or update State EAS Plans.<sup>88</sup> Moreover, since the adoption of State EAS Plan rules in 1994, the alerting landscape has changed dramatically. Local alerts now originate from a wider array of sources and continue to increase in frequency.<sup>89</sup> Many EAS Participants use alternative distribution systems such

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<sup>80</sup> This language was previously codified in Section 11.20; we are incorporating this definition into revised Section 11.18 and deleting Section 11.20.

<sup>81</sup> See, e.g., Washington State SECC Comments at 5-6.

<sup>82</sup> Abbott Comments at 7.

<sup>83</sup> Abbott Comments at 11; see Brouder Comments at 3; NSBA Comments at 4; Rudman Comments at 2; Timm Comments at 4; see also *Notice*, 31 FCC Rcd at 607-08, paras. 18, 20. But see Timm Comments at 4 (suggesting that we could designate "Local Relay" entities as entities that act, where necessary, as a link between the LP and the PN levels); NYCEM Comments at 2 (encouraging designation of "additional roles to account for the ever-growing number of sources" that monitor and transmit EAS messages).

<sup>84</sup> See *Notice*, 31 FCC Rcd at 607-08, paras. 18, 20.

<sup>85</sup> See 47 CFR § 11.55(b).

<sup>86</sup> 2017 *EAS Test Report* at 9.

<sup>87</sup> See *EAS Deployment Order*, 10 FCC Rcd at 1834, para. 132. Among other things, the Commission expected SECCs to organize to include a Broadcast Co-Chair and Cable Co-Chair and expected State EAS Plans to include all authorized sources for initiating EAS alerts, but did not codify these expectations as requirements. See *id.*

<sup>88</sup> See *Notice*, 31 FCC Rcd at 614, para. 33.

<sup>89</sup> See Letter from Wade Witmer, Deputy Director, FEMA IPAWS Division, and Mark Lucero, Chief Engineer, FEMA IPAWS Division, to Marlene H. Dortch, Secretary, FCC at 3 (June 18, 2015) (on file in PS Docket No. 15-91); Elizabeth Dexter, Watch Officer, Arlington County Emergency Communications, Address at the Federal Communications Commission's Workshop to Promote Accessibility and Wider Use of EAS (Aug. 27, 2015); see

(continued....)

as satellite-based systems to supplement or replace the traditional “daisy chain” alert distribution architecture.<sup>90</sup>

33. In the *EAS Nationwide Test Report*, PSHSB observed a lack of clarity in State EAS Plans that precluded end-to-end analysis and review of the EAS system.<sup>91</sup> First, it noted that the Commission’s rules do not require EAS Participants to provide monitoring assignment data below the LP level.<sup>92</sup> Second, it observed that many State EAS Plans did not identify the alternative monitoring sources that EAS Participants relied upon to receive the EAN during the first nationwide EAS test.<sup>93</sup> Additionally, PSHSB observed that many EAS Participants used the satellite-based National Public Radio (NPR) News Advisory Channel (Squawk Channel) to receive the EAN, as opposed to their “daisy chain” monitoring assignments.<sup>94</sup> Based on these findings, PSHSB recommended review of the State EAS Plan rules.<sup>95</sup> CSRIC IV recommended that “SECCs must be free to design and maintain their respective state’s own robust and redundant EAS relay networks in the best and most practical ways possible.”<sup>96</sup>

34. To address these concerns, in the *Notice*, the Commission proposed that each State EAS Plan include: (1) a list of header codes and messages to be transmitted by key EAS sources; (2) a description of all of the state’s procedures for transmitting emergency information to the public, including by EAS, WEA, social media, highway signs, and other alerting procedures; (3) the extent to which the state’s dissemination strategy for state and local alerts differs from its strategy for disseminating the Presidential Alert; (4) a list of all entities authorized to activate EAS for state and local emergencies; (5) monitoring assignments for key alerting sources; (6) EAS testing procedures; (7) the extent to which alert originators coordinate alerts with “many-to-one” feedback mechanisms, such as 911; (8) procedures for authenticating state EAS messages formatted in CAP and signed with digital signatures; and (9) a description of the SECC governance structure used by the state, including the duties, membership selection process, and administrative structure of the SECC.<sup>97</sup>

#### **b. Discussion**

35. We amend the Commission’s rules to specify and standardize the organizational and operational aspects of State EAS Plans to provide State EAS Plans with the level of order and consistency necessary for efficient and reliable distribution of emergency information to the public.<sup>98</sup>

#### **(i) Organizational Elements**

36. *Uniform Designations.* We require that SECCs input State EAS Plan monitoring

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also Stephanie Sanok Kostro et al., White Paper on U.S. Disaster Preparedness and Resilience: Recommendations for Reform at 1 (CSIS-Pennington Family Foundation 2013), [https://csis-prod.s3.amazonaws.com/s3fs-public/legacy\\_files/files/publication/130828\\_CSIS\\_Pennington\\_Disaster%20Reform\\_%20FINAL.pdf](https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/130828_CSIS_Pennington_Disaster%20Reform_%20FINAL.pdf).

<sup>90</sup> See, e.g., Comlabs, *EMnet*, <http://comlabs.com/emnet-eas> (last visited Nov. 8, 2017).

<sup>91</sup> See *2013 EAS Nationwide Test Report* at 17.

<sup>92</sup> *2013 EAS Nationwide Test Report* at 17. PSHSB explained that “the lack of consistency among plans made it very difficult for the Commission and FEMA to create a national propagation map.” *Id.*

<sup>93</sup> *2013 EAS Nationwide Test Report* at 17.

<sup>94</sup> *2013 EAS Nationwide Test Report* at 10; see National Public Radio, Inc. Comments, EB Docket No. 04-296, at Attach. A (Nov. 4, 2013).

<sup>95</sup> *2013 EAS Nationwide Test Report* at 17.

<sup>96</sup> *CSRIC EAS State Plans Report* at 20.

<sup>97</sup> *Notice*, 31 FCC Rcd at 615-22, paras. 36-58.

<sup>98</sup> See *EAS Deployment Order*, 10 FCC Rcd at 1834, para. 132.

assignment data into the ARS using the uniform designations for key EAS sources.<sup>99</sup> As explained in the *Nationwide EAS Test Report*, and as supported by the record, the use of consistent terminology in State EAS Plans will assist the Commission in reviewing plans; understanding EAS architecture on a nationwide, statewide, and local basis; and determining how the states' distribution systems can be aggregated into a single, comprehensive distribution mechanism for the Presidential Alert.<sup>100</sup>

37. *List of Entities Authorized to Activate EAS.* We allow, but do not require, that State EAS Plans include a list of all entities authorized to activate the EAS for state and local emergency messages (e.g., PSAPs) whose transmissions might be interrupted by a Presidential Alert.<sup>101</sup> Commission rules already require State EAS Plans to have a list of authorized entities participating in the state or local EAS.<sup>102</sup> Thus, State EAS Plans already may include, as a component of that list, all entities authorized to activate the EAS for state and local emergency messages.<sup>103</sup> The Commission will prepopulate the online State EAS Plan template with FEMA-approved alert originators, but SECCs may add any state-based alert originators not listed by FEMA as authorized to initiate an IPAWS alert.

38. *A Description of SECC Governance Structure.* To ensure the efficient and effective delivery of a Presidential Alert, we require SECCs to specify in the State EAS Plans their governance structure, including the duties, membership selection process, and administrative structure of the SECC.<sup>104</sup> Most commenters support the Commission providing additional guidance to SECCs, but few commenters provide suggestions on SECC governance, and very few address whether basic data regarding SECC governance should be included in State EAS Plans. Because State EAS Plans detail the distribution architecture for delivery of a Presidential Alert, SECCs should have a governance and oversight structure to support this function.<sup>105</sup> The Commission requires this baseline information about SECCs to verify that State EAS Plans provide the framework for effective transmission of the Presidential Alert. We agree with commenters that the Commission should continue to provide the guidance it historically has supplied to SECCs.<sup>106</sup> Obtaining initial information on an SECC's structure and functions is an essential part of that process. Accordingly, SECCs must, at a minimum, specify their contact points, and whether they represent all alert originators, and their decision-making structures. This baseline information will help us contact relevant staff, identify SECCs that are less active or have fewer

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<sup>99</sup> See Notice, 31 FCC Rcd at 616, para. 38.

<sup>100</sup> See 2013 EAS Nationwide Test Report at 17. See also Timm Comments at 13-14 ("the use of drop-down menus for EAS Designations would appear to be time and cost saving for use in ETRS"); Alaska Commenters Comments at 14 ("Alaska Commenters agree that the designations proposed may be used as a uniform vernacular within State EAS Plans.").

<sup>101</sup> Commenters stated that requiring this element would be burdensome. Zeigler Comments at 2 (calling the proposal "a burdensome concept"); TAB Comments at 3 (calling the proposal "an administrative nightmare" due to limited staff).

<sup>102</sup> Cf. 47 CFR § 11.55(b) (2016) ("EAS operations must be conducted as specified in State and Local Area EAS Plans. The plans must list all authorized entities participating in the State or Local Area EAS."). We maintain the current requirement for State EAS Plans to include procedures for state and local activations of the EAS, including a list of all authorized entities participating in the State or Local Area EAS. See 47 CFR §§ 11.54(a)(1), 11.55(b).

<sup>103</sup> See, e.g., Nevada State Emergency Communications Committee, Nevada Emergency Alert System Plan (2015), [http://www.nevadabroadcasters.org/wp-content/uploads/2017/02/NV-EAS-PLAN\\_BASE-PLAN\\_NOV-2015.pdf](http://www.nevadabroadcasters.org/wp-content/uploads/2017/02/NV-EAS-PLAN_BASE-PLAN_NOV-2015.pdf).

<sup>104</sup> See Notice, 31 FCC Rcd at 616, para. 40.

<sup>105</sup> See 47 CFR § 11.21; *Public Safety and Homeland Security Bureau Encourages State Emergency Communications Committees to Review and Amend State Emergency Alert System Plans to Ensure Up-To-Date EAS Monitoring Assignments*, Public Notice, 28 FCC Rcd 6239, 6239-40 (2013); see also Notice, 31 FCC Rcd at 617, para. 41.

<sup>106</sup> See NSBA Comments at 7, 9; Timm Comments at 33; Washington State SECC Comments at 10, 17; Zeigler Comments at 2; see also *Plan for Nationwide Use of the EBS* at 12.

resources, and formulate strategies for addressing all SECCs' needs. We do not require, however, that SECCs adopt a particular governance structure. For these reasons, we disagree with commenters that oppose these requirements as unnecessary or beyond the scope of many SECCs.<sup>107</sup>

39. *LECCs and Local Area EAS Plans.* We maintain the existing language of Section 11.21(b), which provides for the development of a Local Area Plan containing procedures for local emergencies.<sup>108</sup> CSRIC IV observed that the EAS depends on local distribution and recommended developing policies to “encourage local communications distribution systems to participate in the emergency warning process.”<sup>109</sup> Timm comments that LECCs have “local expertise to best manage EAS alerting in a given area, and Local Area EAS Plans are still viable for addressing EAS procedures at a local level of detail beyond that possible to devote room to in the full State EAS Plan.”<sup>110</sup> Abbott asserts that LECCs and local plans are a necessary component of EAS Plans in large states where no one single broadcast station covers an entire state and no end-to-end “daisy chains” connect operational areas in the state.<sup>111</sup> We conclude that Local Area Plans are still useful in some states and that SECCs should have the option of including them in their State EAS Plans.

#### (ii) Operational Elements

40. The EAS's primary purpose is transmitting a message from the President to the public during a national emergency.<sup>112</sup> To do so, EAS information must be properly coordinated and understood by relevant stakeholders. Accordingly, we require State EAS Plans to include transmission procedures for an EAS alert and accurate, up-to-date monitoring assignments for each key EAS source to reflect how they receive alerts.

41. *Emergency Alerting Procedures.* We conclude that State EAS Plans should contain an accurate and comprehensive listing of procedures used for transmitting information to the public via the EAS. This listing should include the monitoring obligations already required under the rules to transmit the Presidential alert. Non-Presidential use of the “daisy chain” distribution structure facilitates equipment readiness and maintains user proficiency in the system. Accordingly, we require that SECCs disclose in their State EAS Plan the extent to which the state's dissemination strategy for state and local alerts differs (if at all) from its strategy for disseminating the Presidential Alert.<sup>113</sup> Consistent with CSRIC IV's recommendations, this information will help the Commission and SECCs obtain a baseline of information upon which to create a plan for more effective use and development of the EAS in each state. We provide flexibility to SECCs regarding how this information is provided in State EAS Plans, as well as the frequency with which it is updated.

42. *Satellite-based Sources of EAS Messages.* We require that State EAS Plans specify satellite-based communications resources that are used as alternate monitoring assignments and present a reliable source of EANs and other EAS messages.<sup>114</sup> Many EAS Participants currently use satellite-based

<sup>107</sup> Abbott Comments at 22; NSBA Comments at 9-10.

<sup>108</sup> 47 CFR § 11.21(b).

<sup>109</sup> CSRIC EAS State Plan Report at 14.

<sup>110</sup> Timm Comments at 33-34; see Evans Comments at 2. *But see* NSBA Comments at 10 (asserting that inclusion of local plans would make State EAS Plans “unwieldy, and would burden SECCs for no apparent useful purpose”).

<sup>111</sup> Abbott Comments at 23.

<sup>112</sup> See 47 CFR § 11.1; *First Report and Order*, 20 FCC Rcd at 18628, para. 8.

<sup>113</sup> This revised language will subsume the 47 CFR § 11.21 language that State EAS Plans include a statement of “any unique methods of EAS message distribution such as the use of the Radio Broadcast Data System (RBDS).”

<sup>114</sup> See *Notice*, 31 FCC Rcd at 617-18, para. 44. FEMA cautions that not all satellite distribution systems can deliver a near real-time open-ended message, as is required for a Presidential Alert. FEMA Comments at 3. We agree and limit this requirement to sources approved by FEMA as alternate monitoring assignments for the Presidential Alert.

communications technologies as monitoring sources because of incomplete PEP coverage, broadcast monitoring source difficulties, or other reasons.<sup>115</sup> Most commenters support requiring the inclusion of this information in State EAS Plans<sup>116</sup> and note that satellite-based resources may be fast, secure, and reliable.<sup>117</sup>

43. Some commenters recommend that the Commission remain technologically neutral in light of the availability of alternative dissemination technologies for EAS alerts.<sup>118</sup> Our satellite-based sources requirement does not mandate any particular technology, but rather requires that State EAS Plans reflect the monitoring sources used.<sup>119</sup> Thus, our rules maintain technological neutrality while ensuring that State EAS Plans accurately identify each state's entire EAS distribution system.<sup>120</sup> As Abbott suggests, states will determine independently whether they will use satellite-based resources.<sup>121</sup> We note that many state plans include satellite monitoring information.<sup>122</sup> Requiring its inclusion in all State EAS Plans benefits the industry by bringing consistency to the process. To the extent that some State EAS Plans will supply it for the first time, we expect the incremental cost to be minimal.

44. *Monitoring Assignments.* We require State EAS Plans to include “[m]onitoring assignments to receive the Presidential Alert, and the primary and back-up paths for the dissemination of the Presidential Alert to all key EAS sources organized by operational areas within the state.”<sup>123</sup> We find that State EAS Plans should continue to divide their respective states into geographically based operational areas, specifying primary and backup monitoring assignments in each operational area.<sup>124</sup> CSRIC IV noted a lack of uniformity among State EAS Plan definitions of “operational areas” and recommended that, where possible, such service areas should be uniformly identified.<sup>125</sup> Most commenters, however, oppose a standardized definition of “operational areas.”<sup>126</sup> These commenters note

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<sup>115</sup> See *CSRIC EAS State Plan Report* at 9; Abbott Comments at 26-27; Brouder Comments at 5-6; Evans Comments at 2; Timm Comments at 35; Washington State SECC Comments at 6, 19.

<sup>116</sup> Abbott Comments at 26; Alaska Commenters Comments at 3-4; Brouder Comments at 5; NYCEM Comments at 2; Timm Comments at 35; Washington State SECC Comments at 19; *cf.* TAB Comments at 5 (noting use of satellite sources alongside other alerting sources would strengthen the EAS).

<sup>117</sup> Abbott Comments at 26-27; Alaska Commenters Comments at 3-4; FEMA Comments at 3.

<sup>118</sup> *Cf.* OETS, Monroe, and Triveni Comments at 2-3.

<sup>119</sup> EAS Plans should identify substitute or redundant services if a satellite or monitoring source goes out of business or is discontinued.

<sup>120</sup> See Timm Comments at 36 (noting that an alternate monitoring assignment would supplement and not replace either of EAS Participants' two required monitoring sources); *cf.* OETS, Monroe, and Triveni Comments at 2-3.

<sup>121</sup> Abbott Comments at 27.

<sup>122</sup> See, e.g., West Virginia Emergency Alert System Operational Plan at 7 (rev. July 31, 2015), <https://www.wvba.com/resources/public-resources/103-emergency-alert-system.html> (including the MetroNews Net-1 satellite system in West Virginia's EAS Plan) (last visited Nov. 8, 2017).

<sup>123</sup> See *Notice*, 31 FCC Rcd at 670, Appx. A.

<sup>124</sup> A few commenters request that the President's EAN message be carried on NOAA Weather Radio (NWR) to increase the number of choices for monitoring assignments. See Alaska Commenters Comments at 15; Timm Reply Comments at 6. We defer to FEMA and the NWS to determine whether this is appropriate.

<sup>125</sup> *CSRIC IV State EAS Plans Report* at 10.

<sup>126</sup> Abbott Comments at 31, 34; Alaska Commenters Comments at 5; NSBA Comments at 12; Washington State SECC Comments at 19-20; Zeigler Comments at 2; see Timm Comments at 36 (observing that it may create a burden for SECCs to purge the term “operational area” from their State EAS Plans). Abbott argues that SECCs and LECCs should continue to define operational areas because they are familiar with broadcast and NWR coverage areas. Abbott Comments at 31, 34.

that the definition of “operational areas” must be flexible to accommodate the different reasons for their existence, and that such areas are best defined by the local or state entities most familiar with them.<sup>127</sup> To facilitate this flexibility, we will include a drop-down menu in ARS that contains the most common ways SECCs have described their operational areas in previously-approved State EAS Plans as well as an opportunity for SECCs to describe operational areas that do not comport with the drop-down menu choices.

45. We also remove the current restriction that State EAS Plans include monitoring assignments for Presidential Alerts formatted only in the EAS Protocol. Several commenters support removing this restriction.<sup>128</sup> We find that doing so will permit states to provide additional information in their plans. Technologies are evolving, and a Presidential Alert may not necessarily be issued using the EAS Protocol; for example, a new generation of Presidential Alert may be introduced using the CAP standard only.<sup>129</sup> We believe that removing this restriction will ensure that state plans remain flexible and responsive to both changes in technology and changes FEMA may make in the future to the format of Presidential Alerts.<sup>130</sup> We disagree with Timm, who asserts that we should not remove the restriction yet because doing so could “lead to imperiling” the EAS Protocol distribution system and diminish the redundancy of having EAS Participants monitor multiple sources of the Presidential Alert.<sup>131</sup> We continue to require State EAS Plans to contain the EAS Header Code and other EAS Protocol distribution information required under the part 11 rules.<sup>132</sup> We also conclude that we also should allow State EAS Plans to include additional non-EAS Protocol (e.g., CAP) distribution information.

46. *Organization of Section 11.21.* To address all State EAS Plan monitoring requirements in the same section of part 11,<sup>133</sup> we merge Sections 11.52 (“EAS code and Attention Signal Monitoring requirements”) and 11.55 (“EAS operation during a State or Local Area emergency”) into Section 11.21 by: (1) amending Section 11.21 to state that EAS Participant monitoring assignments and EAS operations must be implemented in a manner consistent with guidelines established in the applicable State EAS Plan submitted to the Commission, and (2) removing that language from Sections 11.52 and

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<sup>127</sup> Alaska Commenters Comments at 5; Abbott Comments at 31, 34; Zeigler Comments at 2.

<sup>128</sup> Alaska Commenters Comments at 15 (supporting removal of the restriction to enable Presidential Alerts to be transmitted, at a minimum, utilizing both NWR and FEMA IPAWS); NYCEM Comments at 3; *cf.* Abbott Comments at 34 (supporting removing the restriction only if EAS Participants have the option of receiving and sending Presidential Alerts with the technology available to them). *But see* Trilithic Comments at 2 (noting that Presidential Alerts must be encoded in the EAS Protocol to work under present technologies).

<sup>129</sup> *Notice*, 31 FCC Rcd at 619-20, para. 49; *see* Alaska Commenters Comments at 13, 15.

<sup>130</sup> As CSRIC IV observed, current State EAS Plans include two monitoring assignments for the Presidential Alert. By merely listing two monitoring sources, however, they may not remove single points of failure from EAS alert distribution paths where, for example, both monitored EAS sources monitor the same source. *See CSRIC EAS State Plan Report* at 9; *see also Notice*, 31 FCC Rcd at 620, para. 50. We agree and encourage EAS Participants to make certain that their two monitoring sources do not, in turn, monitor the same EAS source.

<sup>131</sup> Timm Comments at 36-37 (the two required EAS Protocol monitoring sources plus the required IPAWS monitoring source creates three required monitoring sources for EAS Participants). Timm asserts that if an area decided to use only CAP for both of its required monitoring assignments, it would no longer do weekly checks of the continuity of the EAS Protocol system. *Id.*

<sup>132</sup> 47 CFR §§ 11.31(a) (defining EAS Protocol); 11.21 (requiring EAS Header Code and other EAS Protocol information to be included in State EAS Plans).

<sup>133</sup> *See Notice*, 31 FCC Rcd at 620-21, para. 52 (citing 47 CFR § 11.52(d)(1)); *see also* 47 CFR § 11.52(d)(3) (“Monitoring specifications associated with the distribution of CAP-formatted alert messages by state alert message systems are described in the State EAS Plan, as set forth in § 11.21(a.”); *id.* § 11.55(b) (“EAS operations must be conducted as specified in State and Local Area EAS Plans. The plans must list all authorized entities participating in the State or Local Area EAS.”).

11.55.<sup>134</sup> All three of these sections address State EAS Plan content. We agree with Abbott that these changes will help SECCs apply the State EAS Plan rules.<sup>135</sup> We also agree, however, with commenters who assert that removing all state plan terminology from Sections 11.52 and 11.55 could make the rules unclear; therefore, we do not adopt that proposal.

47. We find that this change is supported by CSRIC IV's recommendation that we amend Section 11.21 to provide that "[s]tates that want to use the EAS shall submit a State EAS Plan."<sup>136</sup> We also agree with several commenters who suggest that it would be helpful to specify in Section 11.21 that SECCs develop and maintain state plans,<sup>137</sup> and we add this language to the rule. Finally, we agree with Timm that the language in Section 11.21(c) should refer to the state monitoring assignment matrix rather than the state "data table" and revise Section 11.21(c) accordingly.<sup>138</sup>

### (iii) Testing/Outreach Elements

48. We allow State EAS Plans to include procedures for live code tests and Required Weekly Tests (RWTs). Commenters generally agree that State EAS Plans should include information on EAS testing.<sup>139</sup> Some commenters assert that requiring this information would be impractical or overly burdensome,<sup>140</sup> but other commenters note that this information would help organize test scheduling and prevent confusion.<sup>141</sup> We believe that including information on state testing programs can help ensure that the EAS functions effectively and efficiently. We also note that State EAS Plans already must include information on Required Monthly Tests (RMTs) and special tests.<sup>142</sup> To the extent it is useful to include and memorialize all test procedures, including procedures for live code tests or RWTs, in a consolidated manner, SECCs may use State EAS Plans and ARS as a vehicle for doing so. We note that SECCs and EAS Participants will benefit from SECCs voluntarily providing this information in the ARS, as EAS Participants will be able to readily review plan information relevant to them.<sup>143</sup>

### (iv) Other Proposed Contents

49. We decline to adopt the proposals in the *Notice* that State EAS Plans include a description of the procedures for transmitting emergency information to the public via WEA, social media, highway signs, and other alerting procedures, as well as a description of the extent to which alert originators coordinate alerts with "many-to-one" community feedback mechanisms, such as 911.<sup>144</sup> Although several commenters support the inclusion of some of these capabilities in alerts,<sup>145</sup> commenters

<sup>134</sup> See *Notice*, 31 FCC Rcd at 620-21, para. 52.

<sup>135</sup> Abbott Comments at 33.

<sup>136</sup> *CSRIC EAS State Plan Report* at 35.

<sup>137</sup> See Brouder Comments at 1-2; FEMA Comments at 1; Timm Reply Comments at 9.

<sup>138</sup> Timm Comments at 11-12.

<sup>139</sup> See Abbott Comments at 41; Alaska Commenters Comments at 16; Zeigler Comments at 3.

<sup>140</sup> Brouder Comments at 5; Timm Comments at 40 (observing that live code test details should not be included because any change in the details of a testing procedure would mean the State EAS Plan needs to be updated).

<sup>141</sup> See, e.g., Alaska Commenters Comments at 16; Abbott Comments at 41.

<sup>142</sup> See 47 CFR § 11.61(a)(1), (a)(4).

<sup>143</sup> We are providing State EAS Plan data and any aggregation of such data the same level of confidentiality as data filed in the ETRS. Thus, we disagree with NSBA that this requirement creates a risk of disclosure of sensitive information. NSBA Comments at 14-15.

<sup>144</sup> *Notice*, 31 FCC Rcd at 615-22, paras. 36-58.

<sup>145</sup> See, e.g., NYCEM Comments at 5-9 (supporting alternative distribution platforms, many-to-one capability, and inclusion of multimedia images in alerts); Telecommunications for the Deaf and Hard of Hearing Comments at 4 (supporting utilizing URLs and use of multimedia images in EAS). See also *Wireless Emergency Alerts*;

(continued...)

generally oppose the incorporation of these elements into State EAS Plans.<sup>146</sup> We agree with the majority of commenters that this information is unnecessary at this time to ensure the effective delivery of the EAN, and that its inclusion would be unduly burdensome.<sup>147</sup> We also share commenters' concern that these requirements may cause confusion or conflict with community warning plans, and that they may require the provision of information outside of the SECCs' purview.<sup>148</sup>

#### 4. The National Advisory Committee and Additional Guidance for SECCs

50. CSRIC IV recommended that the Commission reestablish the National Advisory Committee (NAC).<sup>149</sup> The NAC was the federal advisory committee responsible for assisting the Commission with administrating the EAS, promoting stakeholder and Commission interaction with SECCs, and providing information for the development and maintenance of State and Local EAS Plans.<sup>150</sup> The *Notice* sought comment on CSRIC IV's recommendation to reinstate the NAC as well as whether there is a need for a consistent, uniform governance structure for SECCs nationwide to ensure effective functioning of the EAS.<sup>151</sup> Noting that CSRIC IV discouraged a "one size fits all" approach to SECC governance, the Commission asked whether it could issue guidance or work with SECCs to clarify the roles and responsibilities of SECCs in a manner that would be useful in each state.<sup>152</sup> The Commission also sought comment on whether information on SECC governance in State EAS Plans could help develop best practices or other guidance for SECCs.<sup>153</sup>

51. Based on the record, we believe it would serve the public interest to provide SECCs with further guidance on their roles and responsibilities. The record demonstrates support for reinstating the NAC,<sup>154</sup> and commenters generally support the Commission adopting rules or providing guidance or best

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*Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Second Report and Order and Second Order on Reconsideration, FCC 18-4, para. 4 at n.19 (rel. Jan. 31, 2018) (noting that the Commission is "continuing to consider . . . proposals regarding point of sale disclosures, multimedia, multilingual, and many-to-one alerting and will consider any additional presentations made on those topics along with other materials in the record").

<sup>146</sup> See, e.g., Abbott Comments at 25-26; NSBA Comments at 10; TAB Comments at 2; Timm Comments at 29, 38; Washington State SECC Comments at 19; Zeigler Comments at 1.

<sup>147</sup> See, e.g., APCO Comments at 4 (observing that "many-to-one" alerting will require methods and personnel to aggregate, analyze, vet, secure, and confirm information received by the public); NWS Comments at 2 (remarking that there are no established methodologies for ensuring that crowdsourced information is reliable and accurate); Wireless RERC and GIT's CACP Comments at 7-8 (noting that there are challenges in authenticating and verifying crowdsourced information); see also BRETSA Comments at 6-7 (cautioning against using the EAS to prompt social media feedback, as PSAPs are not appropriate entities to assess, evaluate, or mine social media data).

<sup>148</sup> E.g., Abbott Comments at 25-26; TAB Comments at 2; Timm Comments at 29, 38; Washington SECC Comments at 19; Zeigler Comments at 1.

<sup>149</sup> See *CSRIC IV State EAS Plans Report* at 20.

<sup>150</sup> See *FCC Restructures and Renews the Emergency Broadcast System Advisory Committee, and Renames it the National Advisory Committee*, 1996 WL 341341 (OHMSV June 24, 1996). The charter for the NAC was not renewed after 2000. See *FCC Renews EAS National Advisory Committee Charter*, 63 Fed. Reg. 38649 (July 17, 1998); see also *Review of the Emergency Alert System*, EB Docket No. 04-296, Third Report and Order, 26 FCC Rcd 1460, 1492, para. 86 (2011) (*Third Report and Order*).

<sup>151</sup> *Notice*, 31 FCC Rcd at 613, para. 32.

<sup>152</sup> *Notice*, 31 FCC Rcd at 616-17, para. 40.

<sup>153</sup> *Notice*, 31 FCC Rcd at 616-17, para. 40.

<sup>154</sup> Abbott Comments at 19; Alaska Commenters Comments at 2; Monroe Comments at 5; NSBA Comments at 7-8; NWS Comments at 2; TAB Comments at 5; Timm Comments at 15; Washington State SECC Comments at 14-15;

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practices on SECC governance.<sup>155</sup> We note, however, that under the IPAWS Modernization Act of 2015,<sup>156</sup> FEMA recently established the IPAWS Subcommittee to its National Advisory Council, which will consider changes to improve the IPAWS and develop technologies that may be beneficial to the public alert and warning system.<sup>157</sup> NSBA observes that “it would not be unreasonable” for the IPAWS Subcommittee to address issues raised in the *Notice*.<sup>158</sup> Thus, rather than establishing a separate advisory committee, we conclude that the IPAWS Subcommittee is best positioned to efficiently and effectively address issues related to SECC governance and best practices. Accordingly, we will coordinate with FEMA to ensure that SECC administration and governance are addressed within the scope of the IPAWS Subcommittee, which transmits its recommendations to FEMA’s National Advisory Council for review. We believe that working through these existing mechanisms will be the most efficient way to generate recommendations that the Commission may evaluate in formulating its own guidance to improve communication among the Commission, SECCs, FEMA, NWS, and other EAS stakeholders.<sup>159</sup>

52. Although a few commenters suggest amending part 11 to regulate SECCs,<sup>160</sup> we decline to adopt any rules regulating SECCs. Rather, by way of guidance, we provide the SECCs with an online filing template for State EAS Plans and specify the required contents of those plans.

## **B. Compliance Timeframes**

### **1. Background**

53. In the *Notice*, the Commission proposed requiring compliance with the amended rules on information collection requirements (i.e., the State EAS Plan rules) within six months from the release of a Public Notice announcing Office of Management and Budget (OMB) approval of related information collection requirements or within 60 days of a Public Notice announcing the availability of the Commission’s relevant database to receive such information, whichever is later.<sup>161</sup> The Commission also noted that its proposed EAS designation rules did not constitute a collection and required no action by EAS Participants and accordingly proposed that those rules would become effective 30 days from the date of their publication in the *Federal Register*.<sup>162</sup>

### **2. Discussion**

54. *State EAS Plans.* We require compliance with our rules regarding State EAS Plan

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Zeigler Comments at 2. *But see* Brouder Comments at 4-5 (expressing concern that the NAC would be “a well-meaning body with no legal authority”).

<sup>155</sup> Timm Comments at 33; NSBA Comments at 7, 9; Washington State SECC Comments at 10, 17; Zeigler Comments at 2.

<sup>156</sup> *See* Integrated Public Alert and Warning System Modernization Act of 2015, Pub. L. No. 114-143, 130 Stat. 327 (2016). NSBA recommends that the Commission should consider continuing the IPAWS Subcommittee once its sunset period has arrived. NSBA Comments at 9.

<sup>157</sup> <https://www.fema.gov/ipaws-subcommittee> (last visited Nov. 8, 2017). *See also* Letter from Robert J. Fenton, Acting Administrator, FEMA, to Ajit Pai, Chairman, FCC at 1-2 (May 10, 2017) (on file in PS Docket No. 15-94) (noting that FEMA will host the inaugural meeting). The Commission will participate as a member of the subcommittee. Letter from Ajit Pai, Chairman, FCC to Tony Robles, Alternate Designated Federal Officer, National Advisory Committee (NAC) IPAWS Subcommittee, FEMA (June 6, 2017) (on file in PS Docket No. 15-94). The Subcommittee held its initial meetings on August 8 and 9, 2017.

<sup>158</sup> NSBA Comments at 9.

<sup>159</sup> *See* NSBA Comments at 8; *see also* NWS Comments at 2.

<sup>160</sup> *See, e.g.*, NSBA Comments at 5; Zeigler Comments at 2; Washington State SECC Comments at 4, 10, 17.

<sup>161</sup> *Notice*, 31 FCC Rcd at 662-63, paras. 179-80.

<sup>162</sup> *Notice*, 31 FCC Rcd at 662-63, para. 179 & Fig. 5.

content and electronic submission within one year of publication in the *Federal Register* of a Public Notice announcing: (i) OMB approval of ARS information collection requirements or (ii) the availability of the ARS to receive such information, whichever is later. We acknowledge commenters' concerns that the proposed 6-month deadline imposed a significant burden on SECCs' and LECCs' limited resources.<sup>163</sup> Accordingly, we extend our proposed 6-month compliance timeframe to a one-year compliance timeframe. We believe the one-year compliance timeframe that is supported by the majority of commenters will afford SECCs sufficient time to implement our State EAS Plan requirements effectively and conduct any necessary outreach, training, and planning.<sup>164</sup> We further require that State EAS Plans will continue to be updated on a yearly basis, but note that SECCs may satisfy this requirement by simply indicating on the form each year that the plan is up-to-date.

55. *EAS Designations.* We agree with Timm that the new designations should become effective at the same time as the State EAS Plan rule changes because designation changes likely would need to be reflected in most state plans.<sup>165</sup> SECCs may need to engage with key EAS sources in their states to apply our designations. We conclude that aligning the implementation timeframes of the state plan and designation changes will promote efficiency and avoid burdening SECCs with the need to draft multiple versions of their State EAS Plans to comply with the new requirements.

### C. Legal Authority

56. The Communications Act gives the President authority to broadcast alerts during times of national emergency<sup>166</sup> and prohibits broadcasters from issuing false alerts.<sup>167</sup> Congress has also directed that cable systems afford their viewers the same opportunities to receive emergency alerts “as is afforded by” broadcasters “pursuant to Commission regulations.”<sup>168</sup> The Act further requires the Commission to “investigate and study” how to “obtain[] maximum effectiveness from the use of radio and wire communications in connection with safety of life and property.”<sup>169</sup> The Act empowers us to “make such rules and regulations” as necessary to carry out all of these statutory requirements.<sup>170</sup> Together, these provisions have allowed the Commission to oversee the EAS. Although the Commission only requires use of EAS for Presidential Alerts, state and local authorities may use EAS to disseminate information to the public regarding more localized emergencies.

57. In the *Notice*, the Commission sought comment on its sources of legal authority over the EAS,<sup>171</sup> including those provisions that we highlight above, and noted that its proposals are “primarily intended to prepare the nation’s alerting infrastructure for successful transmission of a Presidential Alert.”<sup>172</sup> To enable the President to reliably execute this authority in the public interest, the Commission has long considered it necessary to ensure that our national alerting architecture is ready to transmit a

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<sup>163</sup> See, e.g., Abbott Comments at 84.

<sup>164</sup> See Abbott Comments at 84; Alaska Commenters Comments at 20; TAB Comments at 7; Zeigler Comments at 3 (all supporting a one-year compliance timeframe).

<sup>165</sup> Timm Comments at 50; see Abbott Comments at 84-85 (asserting that the new designations could necessitate rewriting, publishing, and distributing new plans, and training EAS stakeholders to use the new definitions).

<sup>166</sup> 47 U.S.C. § 606(c).

<sup>167</sup> 47 U.S.C. § 325(a).

<sup>168</sup> 47 U.S.C. § 544(g).

<sup>169</sup> 47 U.S.C. § 154(o).

<sup>170</sup> 47 U.S.C. § 303(r); see also 47 U.S.C. § 154(i).

<sup>171</sup> See *Notice*, 31 FCC Rcd at 664-66, paras. 184-186.

<sup>172</sup> See *Notice*, 31 FCC Rcd at 664-66, paras. 186; *EAS Deployment Order*, 10 FCC Rcd at 1835, 1837, paras. 134-35, App. E.

Presidential Alert in an appropriate situation.<sup>173</sup> The rules we adopt here provide more consistent and reliable access to state plans so that the Commission and EAS participants will be better prepared to ensure the successful transmission of a Presidential Alert. No commenters opposed the Commission's authority to adopt any of the proposals contained in the *Notice*.

58. We note that the overall goal of the EAS system is to serve as an effective integral part of a “comprehensive system to alert and warn the American people.”<sup>174</sup> Today's actions contribute to that goal by “adopt[ing] rules to ensure that communications systems have the capacity to transmit alerts and warnings to the public as part of the public alert and warning system.”<sup>175</sup>

#### D. Cost-Benefit Analysis

59. In this section, we find that our rules generally reduce recurring burdens on SECCs. We estimate that they impose a one-time collective transitional cost on all SECCs totaling approximately \$236,000.<sup>176</sup> We show that our rules present sufficient benefits to justify these costs.<sup>177</sup>

##### a. Costs

60. The cost estimates we discuss below are associated with the decisions adopted in this *Order*, as opposed to the more expansive proposals in the *Notice*. We estimate the reasonable one-time cost burden these rules could present to EAS Participants is approximately \$236,000. Specifically, SECCs collectively will incur one-time approximate costs of a \$235,000 recordkeeping cost for producing State EAS Plans consistent with our updated State EAS Plan requirements and EAS designations and a \$1,000 reporting cost for electronically filing those plans. We note that this is a significantly smaller estimated total burden than that described in the *Notice*, which estimated a one-time \$5.3 million and an annual cost of \$596,560.<sup>178</sup> We also note that the Commission sought comment on the specific costs of compliance with the proposed rules,<sup>179</sup> but received no dollar figure estimates in response.<sup>180</sup>

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<sup>173</sup> See, e.g., *Sixth Report and Order*, 30 FCC Rcd at 6548, para. 64; *Fifth Report and Order*, 27 FCC Rcd at 737, para. 283.

<sup>174</sup> Public Alert and Warning System, Exec. Order No. 13407, 71 Fed. Reg. 36975 (2006); see Assignment of National Security and Emergency Preparedness Telecommunications Functions, Exec. Order No. 12472, 77 Fed. Reg. 40779 (2012); *1981 EBS MOU*, The Emergency Alert System (EAS): An Assessment; Memorandum, Presidential Communications with the General Public During Periods of National Emergency, The White House (Sept. 15, 1995); Exec. Order 11092.

<sup>175</sup> Public Alert and Warning System, Exec. Order No. 13407, 71 Fed. Reg. 36975, 36976 (2006).

<sup>176</sup> The approximate one-time compliance costs associated with these rules are \$235,000 to update state plans and \$1,000 to file them. There are no associated recurring costs. Throughout this section, we round our estimates to avoid false precision.

<sup>177</sup> The expected benefits of our rules are best expressed as enhancements to public safety outcomes, such as improving states' emergency management coordination, making emergency alerting more resilient to single points of failure, and facilitating disaster readiness of emergency operations personnel and the public. We note that quantitative precision in our discussion of public safety benefits is unnecessary to conclude that the benefits of our rules will outweigh their costs. See OIRA, Regulatory Impact Analysis: A Primer, at 12, [https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/regpol/circular-a-4\\_regulatory-impact-analysis-a-primer.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/regpol/circular-a-4_regulatory-impact-analysis-a-primer.pdf) (last visited Aug. 14, 2017) (concluding that “some important benefits and costs . . . may be difficult or impossible to quantify or monetize,” and urging regulatory agencies to present all available qualitative information instead).

<sup>178</sup> See *Notice*, 31 FCC Rcd at 604, para. 14 n.47.

<sup>179</sup> See, e.g., *Notice*, 31 FCC Rcd at 604-05, para. 14 (seeking comment on the use of the Value of a Statistical Life for cost measurements); *id.* at 611, paras. 26-28 (seeking comment on costs and benefits of online State EAS Plan filing); *id.* at 612, para. 31 (seeking comment on the most cost-effective way to secure data in state plans); *id.* at 624-26, paras. 61, 64 (seeking comment on potential costs and benefits of live code testing); *id.* at 641, 649-50, 656, paras. 110, 136, 157-59 (seeking comment on potential costs and benefits of the proposed security rules); *id.* at 647,

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Accordingly, the following estimate leverages publicly available data on the financial burdens associated with our requirements.

61. We conclude that producing State EAS Plans consistent with our rules will result in approximately \$235,000 as a one-time recordkeeping cost. In the *Notice*, the Commission estimated that implementing these changes would result in a one-time cost of approximately \$25,000 and that it would take each SECC approximately 20 hours to comply with the new State EAS Plan requirements.<sup>181</sup> Commenters observe that this cost assessment,<sup>182</sup> as well as the Commission's assessment of the total hourly burden required to update State EAS Plans, was too low.<sup>183</sup> In response to these concerns, we are not requiring SECCs to include certain proposed elements in State EAS Plans, which we conclude will reduce the amount of time required to revise their plans. Notwithstanding this revision, we use a quantification of commenters' assessment of the time that it would take SECCs to write their plans from scratch (100 hours) as a reasonable ceiling for the time needed to update those plans consistent with our rules.<sup>184</sup> Based on submissions of State EAS Plans to date, we expect that 54 entities will file such plans.<sup>185</sup> The record shows that the individuals most likely to update those plans are broadcast engineers.<sup>186</sup> Crowdsourced employee compensation data indicates that the median hourly compensation for a broadcast engineer is approximately \$29.<sup>187</sup> According to the Bureau of Labor Statistics, employee overhead benefits (including paid leave, supplementary pay, insurance, retirement and savings, and legally required benefits) add 50 percent to an employer's cost of labor.<sup>188</sup> Thus, we quantify the value of an hour spent updating a State EAS Plan as approximately \$43.50.<sup>189</sup> We conclude that the reasonable

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para. 130 (seeking comment on potential costs of requiring mandatory reporting of false alerts); *id.* at 651-53, paras. 139, 143, 145 (seeking comment on the costs and benefits of the proposed authentication and validation measures).

<sup>180</sup> *E.g.*, Kliver Comments at 1; NCTA Comments at 10; NYCEM Comments at 1; *see* Abbott Comments at 14; Alaska Commenters Comments at 17; Timm Comments at 14; Gorman Comments at 1; Monroe Comments at 36.

<sup>181</sup> *Notice*, 31 FCC Red at 610-11, para. 26.

<sup>182</sup> *See, e.g.*, Abbott Comments at 14 (opposing the estimate because the cost of rewriting and updating Nevada's plan exceeded \$10,000, which did not include the costs of printing and distributing the plans and training stakeholders); Alaska Commenters Comments at 17 (asserting that the estimate is inaccurate, and suggesting inclusion of time spent by SECCs and EAS Participants to review and provide feedback on a plan); Timm Comments at 9 (noting that SECCs will need to rewrite their plans to conform to the new requirements); *see* Monroe Comments at 4 (noting that, initially, there may be additional burdens on less organized and less active SECCs).

<sup>183</sup> Brouder Comments at 3-4; NSBA Comments at 6; *see* Alaska Commenters Comments at 17; Timm Comments at 9.

<sup>184</sup> *Cf.* Brouder Comments at 3-4; NSBA Comments at 6; Timm Comments at 9.

<sup>185</sup> *Cf.* FCC, *State EAS Plans and Chairs*, <https://www.fcc.gov/public-safety-and-homeland-security/policy-and-licensing-division/alerting/general/state-eas-plans> (last visited Nov. 8, 2017) (listing 54 SECCs).

<sup>186</sup> SECCs generally are comprised of engineers. *See generally* Turnmire Comments at 1; FCC, *State EAS Plans and Chairs*, <https://www.fcc.gov/public-safety-and-homeland-security/policy-and-licensing-division/alerting/general/state-eas-plans> (last visited Nov. 28, 2016). We recognize that SECC members who update state plans are often uncompensated volunteers. *See* Abbott Comments at 13; Brouder Comments at 3-4; Timm Comments at 14; Zeigler Comments at 2. We also recognize that these SECC members generally are employed by EAS Participants as engineers and may spend time submitting state plans rather than working for their respective EAS Participant employers. Thus, we factor the hourly rate of the engineer's labor as a cost burden on EAS Participants.

<sup>187</sup> *See Broadcast Engineer Salary*, Payscale.com, [http://www.payscale.com/research/US/Job=Broadcast\\_Engineer/Salary](http://www.payscale.com/research/US/Job=Broadcast_Engineer/Salary) (last visited Nov. 8, 2017) (stating that the median annual salary of a broadcast engineer is \$59,410).

<sup>188</sup> *See* Bureau of Labor Statistics, *Employer Costs for Employee Compensation Supplementary Tables March 2016 at 9 Tbl. 8*, available at <http://www.bls.gov/ncs/ect/sp/ecsuptc38.pdf>.

<sup>189</sup> Fifty percent of the cost of a broadcast engineer's hourly labor (\$29.00) is \$14.50.  $(\$29.00) + (\$14.50) = \$43.50$ .

estimated cost of updating a single State EAS Plan consistent with this *Order* would be approximately \$4,350 and the estimated total cost of compliance with our State EAS Plan rules would be approximately \$235,000.<sup>190</sup>

62. Additionally, we anticipate that SECC representatives also will incur a one-time estimated \$1,000 reporting cost to file their revised State EAS Plans in the ARS. We conclude that the time burden of filing State EAS Plans in the ARS will be one hour, the same burden that OMB approved for filing data in ETRS.<sup>191</sup> Both filing systems present filers with the same user interface, and while State EAS Plans may include more data points than ETRS filings, entering state plan data in the ARS will be simpler because SECCs already have the relevant information on-hand from the process of creating a State EAS Plan. We value the cost of an SECC representative's time spent on this task as approximately \$19, the median hourly salary of a clerical employee plus benefits.<sup>192</sup> Thus, filing state plan data in the ARS will cost approximately \$1,000.<sup>193</sup>

63. Therefore, based on the foregoing analysis, we find it reasonable to conclude that the benefits of the rules we adopt today will exceed the costs of their implementation. Our rule changes will improve alerting organization, support greater testing and awareness of the EAS, and promote the security of the EAS. We believe these benefits easily outweigh the one-time \$236,000 total compliance cost. We also find that these rules likely will continue to accrue value to the public while reducing recurring costs.

#### **b. Benefits**

64. The rules we adopt today will improve the nation's alert and warning capability by modernizing alerting recordkeeping and reducing recurring filing burdens on SECCs. For over two decades, the EAS has proven to be an effective method of alerting the public and saving lives and property. It continues to stand ready to serve its primary purpose of allowing the President to contact the public across the nation quickly and reliably, while at the same time providing the vital service of alerting the public about weather and other emergencies. A majority of the public continues to rely on the EAS to receive emergency information.<sup>194</sup>

65. However, there remain weaknesses in conveying this critical information to the public via the EAS. Recent nationwide testing of the EAS has shown "shortfalls in some state EAS plans,"

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<sup>190</sup> Where (100 hours) x (\$43.50 hourly compensation) = \$4,350. (\$4,350) x (54 SECCs) = \$234,900, which we round to \$235,000. We agree with commenters that legal fees will not be necessary to comply with the new State EAS Plan requirements. *See* Abbott Comments at 15; Brouder Comments at 3-4; Timm Comments at 14.

<sup>191</sup> *See* Notice of Office of Management and Budget Action, ICR 201509-3060-001 (Dec. 4, 2015).

<sup>192</sup> *See Clerical Assistant Salary*, PayScale.com, [http://www.payscale.com/research/US/Job=Clerical\\_Assistant/Hourly\\_Rate](http://www.payscale.com/research/US/Job=Clerical_Assistant/Hourly_Rate) (last visited Mar. 22, 2017) (noting that the median hourly wage of a clerical employee is \$12.40). Pursuant to the Bureau of Labor Statistics' model, the additional cost of employee benefits for a clerical employee is \$6.20. Hence, the full cost of a clerical employee's time is \$18.60, which we round to \$19.

<sup>193</sup> Where (1 hour) x (\$19 hourly salary) x (54 SECCs) = \$1,026, which we round to \$1,000.

<sup>194</sup> The EAS has the unique capacity to alert radio listeners and television viewers simultaneously. During emergencies, a majority of Americans continue to depend on these sources for emergency information. For example, 54 percent of Americans said that they would turn to television first to get information in the event of a terror attack, and an additional 15 percent said they would turn to radio first. Lee Rainie, *The Internet and Emergency Preparedness*, Pew Research Center (Aug. 31, 2003), <http://www.pewinternet.org/2003/08/31/the-internet-and-emergency-preparedness/>. Additionally, 58 percent of Americans report that they continue to rely on television to receive weather-related news. Tom Rosenstiel, Amy Mitchell, Kristen Purcell & Lee Rainie, *Part 4: The Role of Local TV News*, Pew Research Center (Sept. 26, 2011), <http://www.pewinternet.org/2011/09/26/part-4-the-role-of-local-tv-news/>.

including confusion and difficulties in understanding and implementing monitoring assignments.<sup>195</sup> The current paper-based State EAS Plan filing system, EAS designations, and State EAS Plan contents collectively make it difficult for the Commission and other EAS stakeholders to detect problems or map the propagation of EAS alerts.<sup>196</sup> This inability to detect and resolve problems, in turn, makes it more likely that some members of the public may not receive emergency alerts. Our new requirements address this difficulty by creating a uniform online filing system that will utilize specific State EAS Plan contents and uniform EAS designations. These improvements will allow the Commission, FEMA, and localities to more easily review and identify gaps in the EAS architectures, detect problems, and take measures to address these shortcomings. In doing so, and by helping to facilitate measures to improve the reach of EAS messages, we improve the likelihood that a greater segment of the public will receive emergency alerts on a timely basis and take emergency preparedness measures, thereby providing benefits that include potentially reducing the incidence of injuries and preserving property.

66. The improvements to the EAS that we adopt today will contribute to its ability to prevent injuries. We note that in 2016, there were 1,276 injuries resulting from weather events in the United States.<sup>197</sup> If the improvements to the EAS we adopt today prevent just 15 injuries, they will produce a public value of at least \$400,000.<sup>198</sup> This analysis illustrates that injury prevention alone, which will continue in years to come, is likely to produce benefits that outweigh those one-time costs.

67. Additionally, we anticipate that, after the initial one-time cost of compliance with our rules, EAS Participants, SECCs, and state emergency alerting authorities will realize long-term cost savings. In the *Second Report and Order*, the Commission required “state and local entities to annually confirm their plans.”<sup>199</sup> Prior to the current *Order*, when an SECC updated its plan, it would refile its entire plan. The ARS will reduce this filing burden by allowing filers to instantaneously update elements of their plans, by saving previously entered data, and by obviating the need to re-file an entire plan every time a change is made. Converting the State EAS Plan filing system to an online filing system will streamline the state plan approval process and reduce the recurring costs of revising, updating, and resubmitting state plans (e.g., printing and mailing costs).

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<sup>195</sup> See *Public Safety and Homeland Security Bureau Releases its Initial Findings Regarding the 2016 Nationwide EAS Test*, PS Docket No. 15-94, Public Notice, 31 FCC Rcd 13482 (PSHSB 2016).

<sup>196</sup> See *2013 EAS Nationwide Test Report* at 17.

<sup>197</sup> See National Weather Service, National Oceanic and Atmospheric Administration, Summary of Natural Hazard Statistics for 2016 in the United States, Summary of 2016 Weather Events, Fatalities, Injuries and Damage Costs at 3 (May 11, 2017) <http://www.nws.noaa.gov/om/hazstats/sum16.pdf>.

<sup>198</sup> The prevention of 15 injuries would produce a public benefit of \$437,320 where all injuries were considered “minor” on the Abbreviated Injury Scale (AIS). The AIS scale is one of the most widely used methods of describing the severity of traumas. See, e.g., Daniel Davis, et al., *The Impact of Hypoxia and Hyperventilation on Outcome after Paramedic Rapid Sequence Intubation of Severely Head-injured Patients*, *The Journal of Trauma, Injury, Infection and Critical Care*, (2004); Demetrios Demetriades et al., *Mortality Prediction of Head Abbreviated Injury Score and Glasgow Coma Scale: Analysis of 7,764 Head Injuries* (2004). The prevention of 15 injuries would produce a public benefit of \$84,466,920 where all injuries were considered to be “critical” on the AIS scale. See *Wireless Emergency Alerts*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 11112, 11171-73 (2016).

<sup>199</sup> *Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief*, EB Docket No. 04-296, Second Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 13275, para. 68 (2007).

#### IV. PROCEDURAL MATTERS

##### A. Regulatory Flexibility Analysis

68. As required by the Regulatory Flexibility Act of 1980,<sup>200</sup> the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the significant economic impact on small entities of the policies and rules adopted in this document. The FRFA is set forth in Appendix B.

##### B. Paperwork Reduction Analysis

69. The *Order* contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13. It will be submitted to the OMB for review under Section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on the new information collection requirements contained in this proceeding.

70. We note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198,<sup>201</sup> we previously sought specific comment on how the Commission might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”<sup>202</sup> In addition, we have described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the FRFA in Appendix B, *infra*.

#### V. ORDERING CLAUSES

71. Accordingly, IT IS ORDERED, pursuant to Sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 613, as well as the *Twenty-First Century Communications and Video Accessibility Act of 2010*, Pub. L. No. 111-260 and Pub. L. No. 111-265, that the *Report and Order* in PS Docket No. 15-94 IS HEREBY ADOPTED.

72. IT IS FURTHER ORDERED that the Commission’s rules ARE HEREBY AMENDED as set forth in Appendix A.

73. IT IS FURTHER ORDERED that the rules adopted herein WILL BECOME EFFECTIVE on the dates set forth in paragraphs 54-55 above.<sup>203</sup>

74. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>200</sup> See 5 U.S.C. § 604.

<sup>201</sup> See 44 U.S.C. § 3506(c)(4).

<sup>202</sup> See *Notice*, 31 FCC Rcd at 676, Appx. B.

<sup>203</sup> See *supra* paras. 54-55.

## APPENDIX A

Final Rules<sup>1</sup>

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 11 to read as follows:

**PART 11 – EMERGENCY ALERT SYSTEM (EAS)**

1. The authority citation for Part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

2. Revise § 11.2 by removing paragraphs (b), (c), (f), (g), and (h), and by redesignating paragraphs (d), (e), and (i) as paragraphs (b), (c), and (d), to read as follows:

**§ 11.2 Definitions.**

\* \* \* \* \*

(b) EAS Participants. Entities required under the Commission's rules to comply with EAS rules, e.g., analog radio and television stations, and wired and wireless cable television systems, DBS, DTV, SDARS, digital cable and DAB, and wireline video systems.

(c) Wireline Video System. The system of a wireline common carrier used to provide video programming service.

(d) Intermediary Device. An intermediary device is a stand-alone device that carries out the functions of monitoring for, receiving and/or acquiring, and decoding EAS messages formatted in the Common Alerting Protocol (CAP) in accordance with § 11.56, and converting such messages into a format that can be inputted into a separate EAS decoder, EAS encoder, or unit combining such decoder and encoder functions, so that the EAS message outputted by such separate EAS decoder, EAS encoder, or unit combining such decoder and encoder functions, and all other functions attendant to processing such EAS message, comply with the requirements in this part.

3. Revise § 11.18 to read as follows:

**§ 11.18 EAS Designations.**

(a) A Primary Entry Point (PEP) is a private or commercial radio broadcast station that cooperatively participates with FEMA to provide EAS alerts to the public. PEPs are the primary source of initial broadcast for a Presidential Alert. A PEP is equipped with back-up communications equipment and power generators designed to enable it to continue broadcasting information to the public during and after disasters of national significance. The Primary Entry Point System is a nationwide network of such broadcast stations used to distribute EAS alerts formatted in the EAS Protocol. FEMA is responsible for designating broadcast stations as PEPs.

(b) A National Primary (NP) is an entity tasked with the primary responsibility of receiving the Presidential Alert from a PEP and delivering it to an individual state or portion of a state. In states without a PEP, the NP is responsible for receiving the Presidential Alert from an out-of-state PEP and

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<sup>1</sup> This Final Rules Appendix includes changes to the part 11 rules that have taken effect during the pendency of this proceeding.

transmitting it to the public and other EAS Participants in the state. Multiple entities may be charged with primary responsibility for delivering the Presidential Alert.

(c) A State Primary (SP) is an entity tasked with initiating the delivery of EAS alerts other than the Presidential Alert.

(d) A State Relay (SR) is an entity not otherwise designated that is charged with retransmitting EAS alerts for the purpose of being monitored by a Local Primary or Participating National.

(e) State Relay Network (SRN) is a network composed of State Relay (SR) sources, leased common carrier communications facilities or any other available communication facilities. The network distributes State EAS messages originated by the Governor or designated official. In addition to EAS monitoring, satellites, microwave, FM subcarrier or any other communications technology may be used to distribute State emergency messages.

(f) A Local Primary (LP) is an entity that serves as a monitoring assignment for other EAS Participants within the state. LP sources may be assigned numbers (e.g., LP-1, 2, 3) are relied on as monitoring sources by other EAS Participants in the Local Area. An LP may monitor any other station, including another LP, so long as doing so avoids creating a single point of failure in the alert distribution hierarchy.

(g) A Participating National (PN) is an EAS Participant that transmits national, state, or Local Area EAS messages, and is not otherwise designated within the State EAS Plan.

4. Remove § 11.20.

#### **§ 11.20 [Removed]**

5. Amend § 11.21 by revising paragraphs (a) and (c) to read as follows:

#### **§ 11.21 State and Local Area Plans and FCC Mapbook.**

(a) State EAS Plans contain guidelines that must be followed by EAS Participants' personnel, emergency officials, and National Weather Service (NWS) personnel to activate the EAS. The Plans include information on actions taken by EAS Participants, in coordination with state and local governments, to ensure timely access to EAS alert content by non-English speaking populations. State EAS Plans must be updated on an annual basis. The plans must be reviewed and approved by the Chief, Public Safety and Homeland Security Bureau, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

State EAS Plans must include the following elements:

(1) A list of the EAS header codes and messages that will be transmitted by key EAS sources (NP, LP, SP, and SR);

(2) Procedures for state emergency management officials, the National Weather Service, and EAS Participant personnel to transmit emergency information to the public during an emergency via the EAS, including the extent to which the state's dissemination strategy for state and local emergency alerts differs from its Presidential Alerting strategy;

(3) Procedures for state and local activations of the EAS, including a list of all authorized entities participating in the State or Local Area EAS;

(3) A monitoring assignment matrix, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for emergency action notification (EAN)/Presidential Alert messages from the PEP to all key EAS sources (using the uniform designations specified in § 11.18) and

to each station in the plan, organized by operational areas within the state. If a state's emergency alert system is capable of initiating EAS messages formatted in the Common Alerting Protocol (CAP), its EAS State Plan must include specific and detailed information describing how such messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such messages;

(4) State procedures for conducting special EAS tests and Required Monthly Tests (RMTs);

(5) A list of satellite-based communications resources that are used as alternate monitoring assignments and present a reliable source of EAS messages; and

(6) The SECC governance structure utilized by the state in order to organize state and local resources to ensure the efficient and effective delivery of a Presidential Alert, including the duties of the SECC, the membership selection process utilized by the SECC, and the administrative structure of the SECC.

\* \* \* \* \*

(c) The FCC Mapbook is based on the consolidation of the monitoring assignment matrices required in each State EAS Plan with the identifying data contained in the ETRS. The Mapbook organizes all EAS Participants according to their State, EAS Local Area, and EAS designation. EAS Participant monitoring assignments and EAS operations must be implemented in a manner consistent with guidelines established in a State EAS Plan submitted to the Commission in order for the Mapbook to accurately reflect actual alert distribution.

\* \* \* \* \*

5. Amend § 11.52 by removing paragraph (d)(3), and redesignating paragraphs (d)(4) and (d)(5) as (d)(3) and (d)(4), respectively.

6. Amend § 11.55 by revising (b) and (c) to read as follows:

**§ 11.55 EAS operation during a State or Local Area emergency.**

\* \* \* \* \*

(b) EAS operations must be conducted as specified in State and Local Area EAS Plans.

(c) Immediately upon receipt of a State or Local Area EAS message that has been formatted in the EAS Protocol or the Common Alerting Protocol, EAS Participants participating in the State or Local Area EAS must do the following:

(1) State Relays (SR) monitor or deliver EAS alerts as required by the State EAS Plan.

(2) Local Primary (LP) entities monitor SPs, SRs, or other sources as set forth in the State EAS Plan.

(3) Participating National (PN) sources monitor LPs or other sources as set forth in the State EAS Plan.

\* \* \* \* \*

## APPENDIX B

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (*Notice*).<sup>2</sup> The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**A. Need for, and Objectives of, the Report and Order**

2. In today's Report and Order (*Order*), the Commission adopts rules that improve alerting organization at the state and local levels by modernizing the State EAS Plan filing system and reducing paperwork burdens on licensees.

3. We require State Emergency Communications Committees (SECCs) to file their State EAS Plans electronically in a comprehensive and interactive online filing Alert Reporting System (ARS). We also revise our EAS designation definitions to promote accurate mapping and analysis of EAS architectures. Finally, we require State EAS Plans to include certain content that fully details states' strategies for delivering alerts consistently and effectively.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

4. No commenter raised issues in response to the IRFA included in the *Notice*. The Commission concludes that these mandates provide EAS Participants with a sufficient measure of flexibility to account for technical and cost-related concerns. In the event that small entities face unique circumstances that restrict their ability to comply with the Commission's rules, the Commission can address them through the waiver process. The Commission has determined that implementing these improvements to the EAS is technically feasible.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

5. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.<sup>4</sup>

6. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply**

7. The Regulatory Flexibility Act (RFA) directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Pub. L. No. 104-121, 110 Stat. 857 (1996).

<sup>2</sup> See *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, Wireless Emergency Alerts*, PS Docket Nos. 15-94 and 15-91, Notice of Proposed Rulemaking, 31 FCC Rcd 594, Appx. B (2016) (*Notice*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> 5 U.S.C. § 604(a)(3).

adopted.<sup>5</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Below, we describe and estimate the number of small entity licensees that may be affected by the adopted rules.

8. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.<sup>6</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>7</sup> These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.<sup>8</sup> Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>9</sup> Nationwide, as of 2007, there were approximately 1,621,215 small organizations.<sup>10</sup> Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>11</sup> U.S. Census Bureau data published in 2012 indicates that there were 89,476 local governmental jurisdictions in the United States.<sup>12</sup> We estimate that, of this total, as many as 88,761 entities may qualify as “small governmental jurisdictions.”<sup>13</sup> Thus, we estimate that most governmental jurisdictions are small.

9. *Radio Stations.* This Economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.”<sup>14</sup> The SBA has established a small business

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<sup>5</sup> See *id.* § 603(b)(3).

<sup>6</sup> See 5 U.S.C. § 601(3)-(6).

<sup>7</sup> See SBA, Office of Advocacy, “Frequently Asked Questions, Question 1 – What is a small business?” [https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016\\_WEB.pdf](https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf) (June 2016)

<sup>8</sup> See SBA, Office of Advocacy, “Frequently Asked Questions, Question 2- How many small businesses are there in the U.S.?” [https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016\\_WEB.pdf](https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf) (June 2016).

<sup>9</sup> 5 U.S.C. § 601(4).

<sup>10</sup> Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2010).

<sup>11</sup> 5 U.S.C. § 601(5).

<sup>12</sup> U.S. Census Bureau, *Statistical Abstract of the United States: 2012* at 267, Table 429 (2011), <http://www2.census.gov/library/publications/2011/compendia/statab/131ed/2012-statab.pdf> (citing data from 2007).

<sup>13</sup> The 2012 U.S. Census data for small governmental organizations are not presented based on the size of the population in each organization. There were 89,476 local governmental organizations in the Census Bureau data for 2012, which is based on 2007 data. As a basis of estimating how many of these 89,476 local government organizations were small, we note that there were a total of 715 cities and towns (incorporated places and minor civil divisions) with populations over 50,000 in 2011. See U.S. Census Bureau, *City and Town Totals Vintage: 2011*, <http://www.census.gov/popest/data/cities/totals/2011/index.html> (last visited Oct. 20, 2016). If we subtract the 715 cities and towns that meet or exceed the 50,000 population threshold, we conclude that approximately 88,761 are small.

<sup>14</sup> <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=515112&search=2017+NAICS+Search&search=2017>.

size standard for this category as firms having \$38.5 million or less in annual receipts.<sup>15</sup> Economic Census data for 2012 shows that 2,849 radio station firms operated during that year.<sup>16</sup> Of that number, 2,806 operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more.<sup>17</sup> Therefore, based on the SBA's size standard the majority of such entities are small entities.

10. According to Commission staff review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of June 2, 2016, about 11,386 (or about 99.9 percent) of 11,395 commercial radio stations had revenues of \$38.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial radio stations to be 11,415.<sup>18</sup> We note, that the Commission has also estimated the number of licensed NCE radio stations to be 4,101.<sup>19</sup> Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

11. We also note, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included.<sup>20</sup> The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a "small business," an entity may not be dominant in its field of operation.<sup>21</sup> We further note, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis, thus our estimate of small businesses may therefore be over-inclusive.

12. *FM Translator Stations and Low-Power FM Stations.* FM translators and Low Power FM Stations are classified in the category of Radio Stations and are assigned the same NAICS Code as licensees of radio stations.<sup>22</sup> This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.<sup>23</sup> The SBA has established a small business size standard which consists of all radio stations whose annual receipts are \$38.5 million dollars or less.<sup>24</sup> U.S. Census data for 2012 indicates that 2,849 radio station firms operated during that year.<sup>25</sup> Of that

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<sup>15</sup> 13 CFR § 121.201, NAICS code 515112 Radio Stations.

<sup>16</sup> U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515112 Radio Stations) [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>17</sup> *Id.*

<sup>18</sup> *January 5, 2017 Broadcast Station Totals Press Release.*

<sup>19</sup> *January 5, 2017 Broadcast Station Totals Press Release.*

<sup>20</sup> "[Business concerns] are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has power to control both." 13 CFR § 121.103(a)(1).

<sup>21</sup> 13 CFR § 121.102(b).

<sup>22</sup> NAICS Code 515112.

<sup>23</sup> [http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515112&search=2007 NAICS Search](http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515112&search=2007%20NAICS%20Search)

<sup>24</sup> 13 CFR § 121.201

<sup>25</sup> U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515112 Radio Stations), [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

number, 2,806 operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more.<sup>26</sup> Based on U.S. Census data, we conclude that the majority of FM Translator Stations and Low Power FM Stations are small.

13. *Television Broadcasting.* This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.”<sup>27</sup> These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.<sup>28</sup> These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having \$38.5 million or less in annual receipts.<sup>29</sup> The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less, 25 had annual receipts between \$25,000,000 and \$49,999,999 and 70 had annual receipts of \$50,000,000 or more.<sup>30</sup> Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

14. The Commission has estimated the number of licensed commercial television stations to be 1,384.<sup>31</sup> Of this total, 1,264 stations (or about 91 percent) had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 24, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 394.<sup>32</sup> Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

15. We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations<sup>33</sup> must be included. Our estimate, therefore likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of “small business” requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of

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<sup>26</sup> *Id.*

<sup>27</sup> U.S. Census Bureau, 2012 NAICS Definitions, “515120 Television Broadcasting,” <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=515120&search=2017+NAICS+Search&search=2017>.

<sup>28</sup> U.S. Census Bureau, 2012 NAICS Definitions, “515120 Television Broadcasting,” <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=515120&search=2017+NAICS+Search&search=2017>.

<sup>29</sup> 13 C.F.R. § 121.201; 2012 NAICS code 515120.

<sup>30</sup> U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515120 Television Broadcasting). [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>31</sup> *Broadcast Station Totals as of December 31, 2016*, Press Release (MB, rel. January 5, 2017) (*January 5, 2017 Broadcast Station Totals Press Release*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2016>.

<sup>32</sup> *January 5, 2017 Broadcast Station Totals Press Release*.

<sup>33</sup> “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR § 21.103(a)(1).

small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive.<sup>34</sup>

16. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”<sup>35</sup> The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.<sup>36</sup> U.S. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.<sup>37</sup> Thus, under this size standard, the majority of firms in this industry can be considered small.

17. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.<sup>38</sup> The SBA has established a size standard for this industry, stating that a business in this industry is small if it has 1,500 or fewer employees.<sup>39</sup> The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees.<sup>40</sup> Accordingly, we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

18. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission’s

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<sup>34</sup> There are also 2,344 LPTV stations, including Class A stations, and 3689 TV translator stations. Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

<sup>35</sup> See 13 CFR § 120.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICS code as 517311 for Wired Telecommunications Carriers. See, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017>

<sup>36</sup> See 13 CFR § 120.201, NAICS Code 517110.

<sup>37</sup> U.S. Census Bureau, American FactFinder, *Information: Subject Series – Estab and Firm Size: Employment Size of Establishments for the United States: 2012 – 2012 Economic Census of the United States*, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>38</sup> U.S. Census Bureau, *2012 NAICS Definition: 515210 Cable and Other Subscription Programming*, <https://www.census.gov/agi-bin/ssd/naics/naicsrch> (last visited Oct. 25, 2016).

<sup>39</sup> 13 CFR § 121.201, NAICS Code 515210.

<sup>40</sup> U.S. Census Bureau, American FactFinder, *Information: Subject Series – Estab and Firm Size: Receipts Size of Firms for the United States: 2012 – 2012 Economic Census of the United States*, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table) (last visited Nov. 1, 2016).

rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide.<sup>41</sup> Industry data indicate that there are currently 4,600 active cable systems in the United States.<sup>42</sup> Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard.<sup>43</sup> In addition, under the Commission’s rate regulation rules, a “small system” is a cable system serving 15,000 or fewer subscribers.<sup>44</sup> Current Commission records show 4,600 cable systems nationwide.<sup>45</sup> Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.<sup>46</sup> Thus, under this standard as well, we estimate that most cable systems are small entities.

19. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.”<sup>47</sup> There are approximately 52,403,705 cable video subscribers in the United States today.<sup>48</sup> Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.<sup>49</sup> Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.<sup>50</sup> We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.<sup>51</sup> Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

20. *Satellite Telecommunications*. This category comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”<sup>52</sup> The category has a small business size standard of \$32.5

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<sup>41</sup> 47 CFR § 76.901(e).

<sup>42</sup> The number of active, registered cable systems comes from the Commission’s Cable Operations and Licensing System (COALS) database on August 15, 2015. *See* FCC, *Cable Operations and Licensing System (COALS)*, [www.fcc.gov/coals](http://www.fcc.gov/coals) (last visited Oct. 25, 2016).

<sup>43</sup> *See* SNL KAGAN, *Top Cable MSOs*, <https://www.snl.com/Interactivex/TopCableMSOs.aspx> (last visited Oct. 25, 2016).

<sup>44</sup> 47 CFR § 76.901(c).

<sup>45</sup> *March 31, 2013 Broadcast Station Totals Press Release*.

<sup>46</sup> *See* FCC, *Cable Operations and Licensing System (COALS)*, [www.fcc.gov/coals](http://www.fcc.gov/coals) (last visited Oct. 25, 2016).

<sup>47</sup> 47 U.S.C. § 543(m)(2); *see* 47 CFR § 76.901(f) & nn.1-3.

<sup>48</sup> *See* SNL KAGAN, *Multichannel Industry Benchmarks*, <https://www.snl.com/interactivex/MultichannelIndustryBenchmarks.aspx> (last visited Oct. 25, 2016).

<sup>49</sup> *See* 47 § CFR 76.901(f) & nn.1-3.

<sup>50</sup> *See* SNL KAGAN, *Top Cable MSOs*, <https://www.snl.com/Interactivex/TopCableMSOs.aspx> (last visited Oct. 25, 2016).

<sup>51</sup> The Commission receives such information on a case-by-case basis if a cable operator appeals a local franchise authority’s finding that the operator does not qualify as a small cable operator. *See* 47 CFR § 76.901(f).

<sup>52</sup> U.S. Census Bureau, *2012 NAICS Definitions: 517410 Satellite Telecommunications*, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517410&search=2017+NAICS+Search&search=2017>.

million or less in average annual receipts under SBA rules.<sup>53</sup> For this category, U.S. Census Bureau data for 2012 shows that there were a total of 333 firms that operated for the entire year.<sup>54</sup> Of this total, 299 firms had annual receipts of less than \$25 million.<sup>55</sup> Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

21. *All Other Telecommunications.* The “All Other Telecommunications” category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.<sup>56</sup> The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of \$ 32.5 million or less.<sup>57</sup> For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than \$25 million.<sup>58</sup> Consequently, we conclude that the majority of All Other Telecommunications firms potentially affected by our action can be considered small.

22. *The Educational Broadcasting Services.* In addition, the SBA’s placement of Cable Television Distribution Services in the category of Wired Telecommunications Carriers is applicable to cable-based Educational Broadcasting Services. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.”<sup>59</sup> The SBA has developed a small business size standard for this category, which is all such

<sup>53</sup> 13 CFR § 121.201, NAICS code 517410.

<sup>54</sup> U.S. Census Bureau, *2012 Economic Census of the United States, Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the United States: 2012*, Tbl. EC1251SSSZ4, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>55</sup> *Id.*

<sup>56</sup> U.S. Census Bureau, *North American Industry Classification System, Definition of “All Other Telecommunications.”* <https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=ib&id=ib.en./ECN.NAICS2012.517919#>.

<sup>57</sup> See 13 CFR § 121.201, NAICS code 517919.

<sup>58</sup> U.S. Census Bureau, *2012 Economic Census of the United States, Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States*, Tbl. EC0751SSSZ4, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ1&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ1&prodType=table).

<sup>59</sup> U.S. Census Bureau, *2012 NAICS Definition: 517110 Wired Telecommunications Carriers*, <https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=ib&id=ib.en./ECN.NAICS2012.517110#> (providing a partial definition). Examples of this category are: broadband Internet service providers (e.g., cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed circuit television (CCTV) services; VoIP service providers, using owner operated wired

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businesses having 1,500 or fewer employees.<sup>60</sup> U.S. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.<sup>61</sup> Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to Census Bureau data, the Commission's internal records indicate that, as of September 2014, there are 2,207 active EBS licenses.<sup>62</sup> The Commission estimates that of these 2,207 licenses, the majority are held by non-profit educational institutions and school districts, which are defined by statute as small businesses.<sup>63</sup>

23. *Direct Broadcast Satellite (DBS) Service.* DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in the SBA's economic census category titled "Wired Telecommunications Carriers." The Wired Telecommunications Carriers industry is comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephone services, including VoIP services, wired (cable) audio, and video programming distribution, and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>64</sup> The SBA determines that a wireline business is small if it has fewer than 1,500 employees.<sup>65</sup> U.S. Census data for 2012 indicates that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees.<sup>66</sup> Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. However, currently, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network.<sup>67</sup> DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we find internally developed FCC data persuasive, and we conclude that, in general, DBS

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telecommunications infrastructure; direct-to-home satellite system (DTH) services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (MMDS).

<sup>60</sup> 13 CFR § 121.201, 2012 NAICS code 517110.

<sup>61</sup> <https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=ib&id=ib.en./ECN.NAICS2012.517110>.

<sup>62</sup> FCC, *Universal Licensing System*, [http://wireless2.fcc.gov/UlsApp/UlsSearch/results.jsp;JSESSIONID\\_ULS\\_SEARCH=wJ50JkbCQKvNWBjv1s0ZZWQQs1FnmNDjQwvSHsDG2FHSyGV6hdf!203694623!-701794836](http://wireless2.fcc.gov/UlsApp/UlsSearch/results.jsp;JSESSIONID_ULS_SEARCH=wJ50JkbCQKvNWBjv1s0ZZWQQs1FnmNDjQwvSHsDG2FHSyGV6hdf!203694623!-701794836) (last visited Oct. 24, 2016).

<sup>63</sup> The term "small entity" within the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) applies to small organizations (non-profits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). 5 U.S.C. § 601(4)-(6).

<sup>64</sup> See 13 CFR § 120.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICS code as 517311 for Wired Telecommunications Carriers. See, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017>.

<sup>65</sup> 13 CFR § 121.201, NAICS code 517110.

<sup>66</sup> U.S. Census Bureau, American FactFinder, *Information— 2012 Economic Census of the United States*, [http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid=ECN\\_2012\\_US.51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid=ECN_2012_US.51SSSZ4&prodType=table).

<sup>67</sup> See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 28 FCC Rcd 10496, 1057 (2013).

service is provided only by large firms.

24. *Wireless Telecommunications Carriers (Except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services, such as cellular services, paging services, wireless internet access, and wireless video services, using that spectrum.<sup>68</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

25. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today.<sup>69</sup> The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.<sup>70</sup> Of this total, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.<sup>71</sup> Thus, using available data, we estimate that the majority of wireless firms can be considered small.

26. *Broadband Personal Communications Service*. The broadband personal communications service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a “small business” for C- and F-Block licenses as an entity that has average gross revenues of \$40 million or less in the three previous calendar years.<sup>72</sup> For F-Block licenses, an additional small business size standard for “very small business” was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.<sup>73</sup> These standards defining “small entity”, in the context of broadband PCS auctions, have been approved by the SBA.<sup>74</sup> No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D-, E-, and F-Blocks.<sup>75</sup> On April 15, 1999, the Commission

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<sup>68</sup> U.S. Census Bureau, *2012 NAICS Definitions*, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch> (last visited Nov. 1, 2016).

<sup>69</sup> See <http://wireless.fcc.gov/uls>. For the purposes of this FRFA, consistent with Commission practice for wireless services, the Commission estimates the number of licensees based on the number of unique FCC Registration Numbers.

<sup>70</sup> FCC, Trends in Telephone Service at Tbl. 5.3 (Sept. 2010), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-301823A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf).

<sup>71</sup> *Id.*

<sup>72</sup> See *Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap; Amendment of the Commission's Cellular/PCS Cross-Ownership Rule*, WT Docket No. 96-59, GN Docket No. 90-314, Report and Order, 11 FCC Rcd 7824, 7850-52, paras. 57-60 (1996) (*PCS Report and Order*); see also 47 CFR § 24.720(b).

<sup>73</sup> See *PCS Report and Order*, 11 FCC Rcd at 7852, para. 60.

<sup>74</sup> See Letter to Amy Zoslov, Chief, Auctions & Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Dec. 2, 1998) (*Alvarez Letter*).

<sup>75</sup> See *D, E and F Block Auction Closes*, Public Notice, DA 97-81, 1 (Jan. 15, 1997) 1997 WL 20711.

completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22.<sup>76</sup> Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

27. On January 26, 2001, the Commission completed the auction of 422 C- and F-Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status.<sup>77</sup> Subsequent events concerning Auction No. 35, including judicial and agency determinations, resulted in a total of 163 C- and F-Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses.<sup>78</sup> On May 21, 2007, the Commission completed an auction of 33 licenses in the A-, C-, and F-Blocks in Auction No. 71.<sup>79</sup> Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses.<sup>80</sup> On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78.<sup>81</sup> Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.<sup>82</sup>

28. *Narrowband Personal Communications Services.* Two auctions of narrowband PCS licenses have been conducted. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*. Through these auctions, the Commission has awarded a total of 41 licenses, 11 of which were obtained by small businesses.<sup>83</sup> A “small business” is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A “very small business” is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. The SBA has approved these small business size standards.<sup>84</sup>

29. *700 MHz Guard Band Licensees.* In the *700 MHz Guard Band Order*, the Commission adopted size standards for “small businesses” and “very small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.<sup>85</sup> A small

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<sup>76</sup> See *C, D, E, and F Block Broadband PCS Auction Closes*, Public Notice, 14 FCC Rcd 6688 (WTB 1999). Before Auction No. 22, the Commission established a very small standard for the C Block to match the standard used for F Block. *Amendment of the Commission’s Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees*, WT Docket No. 97-82, Fourth Report and Order, 13 FCC Rcd 15743, 15768, para. 46 (1998).

<sup>77</sup> See *C and F Block Broadband PCS Auction Closes; Winning Bidders Announced*, Public Notice, 16 FCC Rcd 2339 (2001).

<sup>78</sup> See *Broadband PCS Spectrum Auction Closes; Winning Bidders Announced for Auction No. 58*, Public Notice, 20 FCC Rcd 3703 (2005).

<sup>79</sup> See *Auction of Broadband PCS Spectrum Licenses Closes; Winning Bidders Announced for Auction No. 71*, Public Notice, 22 FCC Rcd 9247 (2007).

<sup>80</sup> *Id.*

<sup>81</sup> See *Auction of AWS-1 and Broadband PCS Licenses Closes; Winning Bidders Announced for Auction 78*, Public Notice, 23 FCC Rcd 12749 (WTB 2008).

<sup>82</sup> *Id.*

<sup>83</sup> *Amendment of the Commission’s Rules to Establish New Personal Communications Services, Narrowband PCS*, GEN Docket No. 90-314, ET Docket No. 92-100, and PP Docket No. 93-253, Second Report and Order and Second Further Notice of Proposed Rulemaking, 15 FCC Rcd 10456 (2000).

<sup>84</sup> See *Alvarez Letter*.

<sup>85</sup> See *Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission’s Rules, Second Report and Order*, 15 FCC Rcd 5299 (2000). Service rules were amended in 2007, but no changes were made to small business size categories. See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket

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business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.<sup>86</sup> Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.<sup>87</sup> SBA approval of these definitions is not required.<sup>88</sup> In 2000, the Commission conducted an auction of 52 Major Economic Area (“MEA”) licenses.<sup>89</sup> Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.<sup>90</sup>

30. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits.<sup>91</sup> The Commission defined a “small business” as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.<sup>92</sup> A “very small business” is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.<sup>93</sup> Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses—“entrepreneur”—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.<sup>94</sup> The SBA approved these small size standards.<sup>95</sup> An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur

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No. 06-150, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03-264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, WT Docket No. 06-169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 8064 (2007).

<sup>86</sup> See *id.* at 5343, para. 108.

<sup>87</sup> See *id.*

<sup>88</sup> See *id.* at 5343, para. 108 n.246 (noting that for the 746–764 MHz and 776–794 MHz bands, the Commission is exempt from 15 U.S.C. § 632, which requires federal agencies to obtain SBA approval before adopting small business size standards).

<sup>89</sup> See “700 MHz Guard Bands Auction Closes: Winning Bidders Announced,” *Public Notice*, 15 FCC Rcd 18026 (2000).

<sup>90</sup> See *700 MHz Guard Bands Auction Closes: Winning Bidders Announced*, Public Notice, 16 FCC Rcd 4590 (WTB 2001).

<sup>91</sup> See *Reallocation and Service Rules for the 698–746 MHz Spectrum Band (Television Channels 52–59)*, GN Docket No. 01-74, Report and Order, 17 FCC Rcd 1022 (2002) (*Channels 52–59 Report and Order*).

<sup>92</sup> See *id.* at 1087-88, para. 172.

<sup>93</sup> See *id.*

<sup>94</sup> See *id.* at 1088, para. 173.

<sup>95</sup> See *Alvarez Letter*.

status and won a total of 329 licenses.<sup>96</sup> A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses.<sup>97</sup> Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.<sup>98</sup> On July 26, 2005, the Commission completed an auction of five licenses in the Lower 700 MHz band (Auction No. 60). There were three winning bidders for five licenses. All three winning bidders claimed small business status.

31. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order*.<sup>99</sup> An auction of 700 MHz licenses commenced January 24, 2008, and closed on March 18, 2008, which included: 176 Economic Area licenses in the A-Block, 734 Cellular Market Area licenses in the B-Block, and 176 EA licenses in the E-Block.<sup>100</sup> Twenty winning bidders, claiming small business status (those with attributable average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years) won 49 licenses. Thirty-three winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed \$15 million for the preceding three years) won 325 licenses.

32. *Upper 700 MHz Band Licenses.* In the *700 MHz Second Report and Order*, the Commission revised its rules regarding Upper 700 MHz licenses.<sup>101</sup> On January 24, 2008, the Commission commenced Auction No. 73, in which several licenses in the Upper 700 MHz band were available for licensing: 12 Regional Economic Area Grouping licenses in the C-Block, and one nationwide license in the D-Block.<sup>102</sup> The auction concluded on March 18, 2008, with three winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed \$15 million for the preceding three years) and winning five licenses.

33. *Advanced Wireless Services: AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS-1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS-2); 2155–2175 MHz band (AWS-3)).* For the AWS-1 bands,<sup>103</sup> the Commission has defined a “small business” as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, and a “very small business” as an entity with average annual gross revenues for the preceding three years not exceeding \$15 million. For AWS-2 and AWS-3, although we do not know for certain which entities are likely to apply for these frequencies, we note that the AWS-1 bands are comparable to those used for cellular service and personal communications service. The Commission has

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<sup>96</sup> See *Lower 700 MHz Band Auction Closes*, Public Notice, 17 FCC Rcd 17272 (WTB 2002).

<sup>97</sup> See *id.*

<sup>98</sup> See *id.*

<sup>99</sup> *Service Rules for the 698–746, 747–762 and 777–792 MHz Band; Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones; Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services; Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010; Declaratory Ruling on Reporting Requirement under Commission’s Part 1 Anti-Collusion Rule*, WT Docket Nos. 07-166, 06-169, 06-150, 03-264, and 96-86, PS Docket No. 06-229, CC Docket No. 94-102, Second Report and Order, 22 FCC Rcd 15289, 15359 n.434 (2007) (*700 MHz Second Report and Order*).

<sup>100</sup> See *Auction of 700 MHz Band Licenses Closes*, Public Notice, 23 FCC Rcd 4572 (WTB 2008).

<sup>101</sup> *700 MHz Second Report and Order*, 22 FCC Rcd 15289.

<sup>102</sup> See *Auction of 700 MHz Band Licenses Closes*, Public Notice, 23 FCC Rcd 4572 (WTB 2008).

<sup>103</sup> The service is defined in Section 90.1301 *et seq.* of the Commission’s rules.

not yet adopted size standards for the AWS-2 or AWS-3 bands, but proposes to treat both AWS-2 and AWS-3 similarly to broadband PCS service and AWS-1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.<sup>104</sup>

34. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and “wireless cable,” transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).<sup>105</sup>

35. *BRS* -In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than \$40 million in the previous three calendar years.<sup>106</sup> The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities.<sup>107</sup> After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission’s rules.

36. In 2009, the Commission conducted Auction No. 86, the sale of 78 licenses in the BRS areas.<sup>108</sup> The Commission offered three levels of bidding credits: (i) a bidder with attributed average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years

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<sup>104</sup> See *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket No. 02-353, Report and Order, 18 FCC Rcd 25162, Appx. B (2003), modified by *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket No. 02-353, Order on Reconsideration, 20 FCC Rcd 14058, Appx. C (2005); *Service Rules for Advanced Wireless Services in the 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz Bands*; *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket Nos. 04-356 and 02-353, Notice of Proposed Rulemaking, 19 FCC Rcd 19263, Appx. B (2005); *Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band*, WT Docket No. 07-195, Notice of Proposed Rulemaking, 22 FCC Rcd 17035, Appx. (2007).

<sup>105</sup> *Amendment of Parts 21 and 74 of the Commission’s Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, MM Docket No. 94-131, PP Docket No. 93-253, Report and Order, 10 FCC Rcd 9589, 9593, para. 7 (1995).

<sup>106</sup> 47 CFR § 21.961(b)(1).

<sup>107</sup> 47 U.S.C. § 309(j). Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. § 309(j). For these pre-auction licenses, the applicable standard is SBA’s small business size standard of 1,500 or fewer employees.

<sup>108</sup> *Auction of Broadband Radio Service (BRS) Licenses, Scheduled for October 27, 2009, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 86*, AU Docket No. 09-56, Public Notice, 24 FCC Rcd 8277 (2009).

(entrepreneur) received a 35 percent discount on its winning bid.<sup>109</sup> Auction No. 86 concluded in 2009 with the sale of 61 licenses.<sup>110</sup> Of the ten winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

37. *EBS* - The SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,436 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities.<sup>111</sup> Thus, we estimate that at least 2,336 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.<sup>112</sup> The SBA's small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

38. *Wireless Communications Service*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction.<sup>113</sup> A "small business" is an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" is an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these small business size standards.<sup>114</sup> The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business" entity.

39. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.<sup>115</sup> The Small Business Administration has established a size standard for this

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<sup>109</sup> *Id.* at 8296, para. 73.

<sup>110</sup> *Auction of Broadband Radio Service Licenses Closes, Winning Bidders Announced for Auction 86, Down Payments Due November 23, 2009, Final Payments Due December 8, 2009, Ten-Day Petition to Deny Period*, Public Notice, 24 FCC Rcd 13572 (2009).

<sup>111</sup> The term "small entity" within SBREFA applies to small organizations (nonprofits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). 5 U.S.C. §§ 601(4)-(6). We do not collect annual revenue data on EBS licensees.

<sup>112</sup> U.S. Census Bureau, 2012 NAICS Definitions, "517110 Wired Telecommunications Carriers," (partial definition), <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517110&search=2012>.

<sup>113</sup> *Auction of Wireless Communications Services, Auction Notes and Filing Requirements for 128 WCS Licenses Scheduled for April 15, 1997*, Public Notice, DA 97-386 (Feb. 21, 1997), [https://transition.fcc.gov/Bureaus/Wireless/Public\\_Notices/1997/da970386.txt](https://transition.fcc.gov/Bureaus/Wireless/Public_Notices/1997/da970386.txt).

<sup>114</sup> *Alvarez Letter*.

<sup>115</sup> U.S. Census Bureau, 2012 NAICS Definition, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch> (last visited Aug. 14, 2017).

industry of 750 employees or less.<sup>116</sup> U.S. Census data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 819 establishments operated with less than 500 employees.<sup>117</sup> Based on this data, we conclude that a majority of manufacturers in this industry are small.

40. *Software Publishers.* This industry comprises establishments primarily engaged in computer software publishing or publishing and reproduction. Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. These establishments may design, develop, and publish, or publish only.<sup>118</sup> The SBA has established a size standard for this industry of annual receipts of \$38.5 million per year.<sup>119</sup> U.S. Census data for 2012 indicates that 5,079 firms operated in that year. Of that number, 4,697 firms had annual receipts of \$25 million or less.<sup>120</sup> Based on that data, we conclude that a majority of firms in this industry are small.

41. *NCE and Public Broadcast Stations.* Entities in this fall category fall under the Census Bureau definition for Television Broadcasting which comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.<sup>121</sup> The SBA has created a small business size standard for Television Broadcasting entities, which is such firms having \$38.5 million or less in annual receipts.<sup>122</sup> The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less, 25 had annual receipts between \$25,000,000 and \$49,999,999 and 70 had annual receipts of \$50,000,000 or more.<sup>123</sup> Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

42. The Commission has estimated the number of licensed commercial television stations to be 1,384.<sup>124</sup> Of this total, 1,264 stations (or about 91 percent) had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 24, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational

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<sup>116</sup> 13 CFR § 121.201, NAICS Code 334220.

<sup>117</sup> U.S. Census Bureau, American FactFinder, *2012 Economic Census, Industry Series*, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_31SG2&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_31SG2&prodType=table) (last visited Aug. 14, 2017).

<sup>118</sup> U.S. Census Bureau, *North American Industry Classification*, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch> (last visited Aug. 14, 2017).

<sup>119</sup> 13 CFR § 121.201.

<sup>120</sup> U.S. Census Bureau, American FactFinder, *Professional, Scientific, and Technical Services*, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table) (last visited Aug. 14, 2017).

<sup>121</sup> U.S. Census Bureau, *2002 NAICS Definition: 515120 Television Broadcasting*, <http://www.census.gov/epcd/naics02/def/NDEF515.HTM> (last visited Oct. 25, 2016) (providing a partial definition).

<sup>122</sup> 13 CFR § 121.201, NAICS code 515120.

<sup>123</sup> U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series - Establishment and Firm Size: Receipts Size of Firms for the United States: 2012 (515120 Television Broadcasting)*, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>124</sup> *Broadcast Station Totals as of December 31, 2016*, Press Release (MB, rel. January 5, 2017) (*January 5, 2017 Broadcast Station Totals Press Release*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2016>.

(NCE) television stations to be 394.<sup>125</sup> Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

43. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations<sup>126</sup> must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

44. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent. There are also 2,117 low power television (LPTV) stations.<sup>127</sup> Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

#### **E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

45. This *Order* expands the scope of State EAS Plans to include additional information necessary to ensure the successful transmission of a Presidential Alert, such as uniform EAS designations, a description of SECC governance structure, expanded descriptions of emergency alerting procedures, and a more accurate statement of monitoring requirements. It requires that any State EAS Plans filed be submitted via the ARS. These changes will impose an initial one-time recordkeeping cost on SECCs to revise and electronically file each state’s EAS Plan. Over time, however, the State EAS Plan filing system will streamline the state plan approval process and reduce the recurring costs of revising, updating, and resubmitting state plans (e.g., by saving previously entered data and by obviating printing and mailing costs). Specifically, the estimated reasonable one-time cost burden these rules could present to EAS Participants is approximately \$236,000. EAS Participants collectively will incur one-time approximate costs of: (1) a \$235,000 recordkeeping cost for producing State EAS Plans consistent with our updated State EAS Plan requirements and EAS designations; and (2) a \$1,000 reporting cost for electronically filing those plans.

#### **F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

46. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small

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<sup>125</sup> *January 5, 2017 Broadcast Station Totals Press Release.*

<sup>126</sup> “Concerns are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 CFR § 21.103(a)(1).

<sup>127</sup> Press Release, FCC, Broadcast Station Totals as of September 30, 2005 (Dec. 8, 2005), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-262581A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-262581A1.pdf).

entities.<sup>128</sup>

47. With respect to the State EAS Plan filing process, converting the paper-based filing process into an online process will reduce reporting costs and associated burdens for SECCs. We also have included functionalities, such as prepopulated data and drop-down menus that will further lessen burdens associated with updating and filing State EAS Plans. Based on our review of the record, we conclude the same EAS designations and plan components can be applied to all states while providing states flexibility to create EAS Plans that fit their individual needs.

48. With respect to the State EAS Plan contents, the uniform online filing system will utilize specific State EAS Plan contents and uniform EAS designations. These improvements will allow the Commission, FEMA, and localities to more easily review EAS architectures, detect problems, and ensure more ubiquitous coverage of EAS alerts.

49. Finally, we adopt implementation timeframes for each of our rules that are intended to allow SECCs and EAS Participants to come into compliance with our rules in a manner that balances the need for improving EAS organization and effectiveness as soon as possible with any potential burdens that may be imposed by adoption of our proposals.

### **Report to Congress**

50. The Commission will send a copy of this *Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>129</sup> In addition, the Commission will send a copy of this *Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this *Order* and FRFA (or summaries thereof) will also be published in the *Federal Register*.<sup>130</sup>

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<sup>128</sup> 5 U.S.C. § 603(c)(1)-(4).

<sup>129</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>130</sup> See 5 U.S.C. § 604(b).

## APPENDIX C

List of CommentersPS Docket 15-94**Initial Commenters****Abbreviation**

Aaron Conti	Conti
AC&C	AC&C
Adrienne Abbott, Nevada SECC Chairwoman, filing in her individual capacity	Abbott
Alaska Broadcasters Association, Alaska State Emergency Communications Committee, and The State of Alaska Department of Military and Veterans Affairs, The Division of Homeland Security and Emergency Management	Alaska Commenters
American Cable Association	ACA
America's Public Television Stations, The Corporation for Public Broadcasting, National Public Radio, and The Public Broadcasting Service	APTS, CPB, NPR, and PBS
Association of Public-Safety Communications Officials International, Inc.	APCO
AT&T Services, Inc.	AT&T
AWARN Alliance	AWARN Alliance
Boulder Regional Emergency Telephone Service Authority	BRETSA
California Governor's Office of Emergency Services	California Governor's OES
Cohen, Dippell & Everist, P.C.	CD&E
Comcast Corporation	Comcast
Convergence Services, Inc.	Convergence
CTIA	CTIA
David L. Turnmire, Idaho SECC Chairman, filing in his individual capacity	Turnmire
Donald Walker	Walker
New Hampshire SECC Chairman and New Hampshire Association of Broadcasters Director Ed Brouder	Brouder
Federal Emergency Management Agency, Integrated Public Warning System Program Management Office	FEMA
Frank W. Bell	Bell
Frank LoPinto	LoPinto
Gary E. Timm, Wisconsin SECC Broadcast Chair, filing in his individual capacity	Timm
Gorman Redlich Manufacturing Company	Gorman Redlich

Jacob Epstein	Epstein
James T. Gorman	Gorman
Kenneth Evans, Delaware SECC EAS Co-Chair, filing in his individual capacity	Evans
Lance Seidman	Seidman
Mayco Ayala	Ayala
Matthew Biddle	Biddle
MED-EL Elektromedizinische Geraete ZGmbH	MED-L
Monroe Electronics, Inc.	Monroe
Named State Broadcasters Associations	NSBA
National Association of Broadcasters	NAB
National Cable and Telecommunications Association	NCTA
National Oceanic and Atmospheric Administration's National Weather Service	NWS
New York City Emergency Management Department	NYCEM
Nolan Peek	Peek
Ohio Educational Television Stations, Inc., Monroe Electronics, Inc., and Triveni Digital, Inc.	OETS, Monroe, and Triveni
Rehabilitation Engineering Research Center for Wireless Technologies and the Georgia Institute of Technology's Center for Advanced Communications Policy	Wireless RERC and GIT's CACP
Richard A. Rudman	Rudman
Robert Kluver	Kluver
Rodney V. Zeigler, Nebraska SECC Chairman	Zeigler
Sage Alerting Systems, Inc.	Sage
Sean Avne	Avne
Sean Digiacommo	Digiacommo
Sean Donelan	Donelan
Sylvana Berry	Berry
Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Hearing Loss Association of America, Association of Late- Deafened Adults, Inc., and Gallaudet University Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing	Telecommunications for the Deaf & Hard of Hearing, Inc. et al.
Tennessee Association of Broadcasters	TAB
Trilithic, Inc.	Trilithic
United States Geological Survey	USGS
Washington State SECC	Washington State SECC

William W. Shields

Shields

Reply Commenters

Abbreviation

American Cable Association

ACA

DISH Network LLC

DISH

Federal Emergency Management Agency, Integrated Public Warning System Program Management Office

FEMA

Frank W. Bell

Bell

Gary E. Timm, Wisconsin SECC Broadcast Chair, filing in his individual capacity

Timm

Monroe Electronics, Inc.

Monroe

National Association of Broadcasters

NAB

National Cable and Telecommunications Association

NCTA

Ex Parte Commenters

Abbreviation

American Cable Association

ACA

America's Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service

APTS, CPB, and PBS

AT&T Services, Inc.

AT&T

Charter Communications

Charter

Comcast Corporation

Comcast

Federal Emergency Management Agency, Integrated Public Warning System Program Management Office

FEMA

Google, Inc.

Google

Monroe Electronics, Inc.

Monroe

National Association of Broadcasters

NAB

National Cable and Telecommunications Association

NCTA

Sage Alerting Systems, Inc.

Sage

Trilithic, Inc.

Trilithic

APPENDIX D

Prototype State EAS Plan Online Filing Template<sup>1</sup>



# ALERT REPORTING SYSTEM (ARS)

A login screen for the Alert Reporting System (ARS). It features a map of the United States in the background. Overlaid on the map are three input fields: "SECC ID No. (if any):", "Username:", and "Password:". Below these fields are two buttons: "Sign In" and "Forgot your password?". At the bottom of the map area, there is a "New User?" link and a "Register" button. A "Help" button is located in the bottom left corner of the map area.

A registration form titled "Register" for the Alert Reporting System (ARS). The form is set against a light gray background. It includes the following fields: "First Name:", "Last Name:", "Title:", "Company:", "Street Address:", "City:", "State:", "Zip:", "Phone:", "Email:", "SECC ID No. (if any):", and "FCC Registration No. (if any):". Each field is followed by a white input box. At the bottom of the form, there are two buttons: "Back" on the left and "Register" on the right. The "ARS" logo is in the top left and the "FCC" logo is in the top right of the form's header area.

<sup>1</sup> This template is an information collection subject to the Paperwork Reduction Act (PRA). As such, it will be submitted to OMB for review. OMB, the general public, and other federal agencies will be invited to comment on this template.



# ALERT REPORTING SYSTEM (ARS)

Thank you for registering!  
A confirmation email has been sent to [auto input email address].

[Return to Login](#)

**ARS**



## File a State Plan

- |  |  |
|--|--|
| <a href="#">SECC Governance Structure</a>                  | <a href="#">Monitoring Assignments: State and Local Alerts</a> |
| <a href="#">Alert Origination</a>                          | <a href="#">Alerting Procedures</a>                            |
| <a href="#">Header Codes</a>                               | <a href="#">Multilingual Alerting</a>                          |
| <a href="#">Operational Areas</a>                          | <a href="#">Local Area Plans</a>                               |
| <a href="#">Monitoring Assignments: Presidential Alert</a> | <a href="#">Submit State Plan for FCC Review</a>               |

<b>ARS</b>		FC
<b>SECC Governance Structure</b>	<b>SECC Governance Structure</b>	
Alert Origination	Please provide the name and contact information for your SECC's Chairs, Vice-Chairs, and other key leaders (up to three each).	
Header Codes		
Operational Areas	<b>SECC Leadership Contact Information</b>	
Monitoring Assignments: Presidential Alert	Name: <input type="text"/>	Title: <input type="text" value="Broadcast Chair"/>
Monitoring Assignments: State and Local Alerts	Street Address: <input type="text"/>	Phone: <input type="text"/>
Alerting Procedures	City: <input type="text"/>	State: <input type="text"/>
Multilingual Alerting	Zip: <input type="text"/>	Email: <input type="text"/>
Local Area Plans	<input type="button" value="Add another SECC Official"/>	
Submit State Plan for FCC Review	<input type="button" value="Back"/>	<input type="button" value="Save"/>
		<input type="button" value="Next"/>

<b>ARS</b>		FC
<b>SECC Governance Structure</b>	<b>SECC Governance Structure</b>	
Alert Origination	Please describe your SECC's duties, its membership selection process, and its administrative structure.	
Header Codes	<b>What are your SECC's duties and responsibilities?</b>	
Operational Areas	<input type="text"/>	
Monitoring Assignments: Presidential Alert	<b>How are SECC members and leaders selected? Do your SECC's members represent all alert originators in your state?</b>	
Monitoring Assignments: State and Local Alerts	<input type="text"/>	
Alerting Procedures	<b>What is your SECC's administrative structure? (e.g., How are decisions made in your SECC?)</b>	
Multilingual Alerting	<input type="text"/>	
Local Area Plans	<input type="button" value="Back"/>	<input type="button" value="Save"/>
Submit State Plan for FCC Review		<input type="button" value="Next"/>

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SECC Governance Structure	<div style="text-align: center;"><b>Alert Origination Information</b></div> <p>List all authorized entities participating in the State or Local Area EAS.</p> <p><b>Authorized State or Local EAS Participants</b></p> <div style="border: 1px solid gray; height: 150px; width: 100%; margin: 10px 0;"></div> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <span style="border: 1px solid gray; padding: 5px 15px;">Back</span> <span style="border: 1px solid gray; padding: 5px 15px; background-color: #ccc;">Save</span> <span style="border: 1px solid gray; padding: 5px 15px;">Next</span> </div>
<b>Alert Origination</b>	
Header Codes	
Operational Areas	
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Monitoring Assignments: State and Local Alerts	
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SECC Governance Structure	<div style="text-align: center;"><b>Alert Origination Information</b></div> <p>Using the drop down menu, you may select all entities (e.g., PSAPs) that are authorized to activate the EAS for the transmission of state and local emergency messages. (Optional)</p> <p><b>Authorized Alert Originators</b></p> <div style="display: flex; align-items: flex-start; margin-top: 10px;"> <div style="border: 1px solid gray; padding: 2px 5px; margin-right: 5px;">Governor</div> <div style="font-size: 0.8em;">▼</div> <div style="border: 1px solid gray; padding: 5px; flex-grow: 1; margin: 0 10px;">Delaware Emergency Management Agency</div> <div style="border: 1px solid gray; padding: 2px 5px; margin-top: 5px;">Remove</div> <div style="border: 1px solid gray; padding: 2px 5px; margin-top: 5px;">Remove</div> <div style="border: 1px solid gray; padding: 2px 5px; margin-top: 5px;">Remove</div> <div style="border: 1px solid gray; padding: 2px 5px; margin-top: 5px;">Remove</div> <div style="border: 1px solid gray; padding: 2px 5px; margin-top: 5px;">Remove</div> </div> <div style="text-align: right; margin-top: 10px;"> <div style="border: 1px solid gray; padding: 5px 15px; background-color: #ccc;">Submit</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <span style="border: 1px solid gray; padding: 5px 15px;">Back</span> <span style="border: 1px solid gray; padding: 5px 15px; background-color: #ccc;">Save</span> <span style="border: 1px solid gray; padding: 5px 15px;">Next</span> </div>
<b>Alert Origination</b>	
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### Header Codes

You may enter all of the header codes used by your state to transmit emergency messages via the EAS through key EAS sources (e.g., NP, SP, SR, and LP). (Optional)

EAS Header Codes and Messages	Explanation of Header Codes and Messages	
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	
Example: "VOW" Volcano Warning	<input type="button" value="Add to Table"/>	<div style="border: 1px solid gray; padding: 5px; margin-bottom: 5px;">                     "TOR" Tornado Warning <input type="button" value="Remove"/> </div> <div style="border: 1px solid gray; padding: 5px; margin-bottom: 5px;">                     "TSW" Tsunami Warning <input type="button" value="Remove"/> </div> <div style="border: 1px solid gray; padding: 5px; margin-bottom: 5px;"> <input type="button" value="Remove"/> </div> <div style="border: 1px solid gray; padding: 5px; margin-bottom: 5px;"> <input type="button" value="Remove"/> </div> <div style="border: 1px solid gray; padding: 5px;"> <input type="button" value="Remove"/> </div>

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### Operational Areas

Using the drop down menu, please select your state's method of describing its geographically-based operational areas.

Operational Area (OA)	OA FIPS/ZIP Codes	OA Coordinates	OA Counties	Comments

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### Monitoring Assignments—Presidential Alert

How does your state assign its monitoring assignments for transmission of the EAN?

By Operational areas ▼

**Monitoring Assignments for National Primaries, State Primaries, State Relays, and Local Primaries**

EAS Participant (call sign or ID)	Operational Area Name	EAS Designation	First Monitoring Assignment (LP-1)	Second Monitoring Assignment (LP-2)	Additional EAN Sources (including satellite-based sources)	NOAA Weather Radio (NWR) site and frequency (optional)	Additional Notes
	▼	NP					
	▼	LP-2					

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### Monitoring Assignments—Presidential Alert

How does your state assign its monitoring assignments for transmission of the EAN?

By Operational areas ▼

**Monitoring Assignments for Participating Nationals**

Operational Area Name	EAS Designation	First Monitoring Assignment (LP-1)	Second Monitoring Assignment (LP-2)	Additional EAN Sources (including satellite-based sources)	NOAA Weather Radio (NWR) site and frequency (optional)	Additional Notes
▼	PN					
▼	PN					

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### Monitoring Assignments—Presidential Alert

How does your state assign its monitoring assignments for transmission of the EAN?

By Operational areas ▼

#### Exceptions to Monitoring Assignments for Participating Nationals

EAS Participant (call sign or ID)	Operational Area Name	EAS Designation	First Monitoring Assignment (LP-1)	Second Monitoring Assignment (LP-2)	Additional EAN Sources (including satellite-based sources)	NOAA Weather Radio (NWR) site and frequency (optional)	Additional Notes
	PN	▼					
	PN	▼					

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### Monitoring Assignments—Presidential Alert

How does your state assign its monitoring assignments for transmission of the EAN?

By EAS Participants ▼

#### Monitoring Assignments

EAS Participant (call sign or other ID, e.g., PSID)	Operational Area Name	EAS Designation	First Monitoring Assignment (LP-1)	Second Monitoring Assignment (LP-2)	Additional EAN Sources (including satellite-based sources)	NOAA Weather Radio (NWR) site and frequency (optional)	Additional Notes
	▼	PN ▼					
	▼	LP-1 ▼					

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### Monitoring Assignments—State and Local Alerts

Do your state's Monitoring Assignments for state and local alerts differ from those for the Presidential Alert?

Yes

If any of the differences between EAN monitoring assignments and state/local monitoring assignments do not fit in the matrix below, please describe them here.

EAS Participant (call sign or other ID, e.g., PSID)	Operational Area	EAS Designation	First Monitoring Assignment (LP-1)	Second Monitoring Assignment (LP-2)	Additional EAN Sources (including satellite-based sources)	NOAA Weather Radio (NWR) site and frequency (optional)	Additional Notes
	<input type="button" value="v"/>	<input type="button" value="v"/>					
	<input type="button" value="v"/>	<input type="button" value="v"/>					

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### Alerting Procedures

List and describe all procedures by which state officials, the NWS, and EAS Participants use the EAS to transmit information to the public during an emergency.

<b>ARS</b>		
SECC Governance Structure	<h3 style="margin: 0;">Alerting Procedures</h3> <p style="margin: 0;">Describe all procedures used by your state to conduct special EAS tests and RMTs. You may also optionally describe all procedures used by your state to conduct live code tests and RWTs.</p> <div style="border: 1px solid #ccc; height: 150px; width: 100%;"></div>	
Alert Origination		
Header Codes		
Operational Areas		
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<b>ARS</b>		
SECC Governance Structure	<h3 style="margin: 0;">Alerting Procedures</h3> <p style="margin: 0;">Describe how CAP-formatted messages will be aggregated and distributed to EAS Participants within your state. Are there any monitoring requirements associated with the distribution of such messages?</p> <div style="border: 1px solid #ccc; height: 100px; width: 100%;"></div> <p style="margin: 10px 0 0 0;">If desired, you may attach relevant IPAWS, governmental, or vendor documentation to supplement your answers, as needed below.</p> <div style="margin: 10px 0 0 40px;">             Attach a file: <input style="width: 150px;" type="text"/> <span style="margin-left: 10px; border: 1px solid #ccc; padding: 2px 5px;">Browse...</span> <span style="margin-left: 10px; border: 1px solid #ccc; padding: 2px 5px;">Upload</span> </div>	
Alert Origination		
Header Codes		
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<b>ARS</b>			
<b>SECC Governance Structure</b>	<b>Multilingual Alerting Information</b>		
<b>Alert Origination</b>	Provide a summary of the manner in which EAS Participants in your state make EAS alert message content available in languages other than English to audiences who communicate in languages other than English.		
<b>Header Codes</b>	<input type="text"/>		
<b>Operational Areas</b>	Describe any future actions planned by EAS Participants in your state to provide the content described above.		
<b>Monitoring Assignments: Presidential Alert</b>	<input type="text"/>		
<b>Monitoring Assignments: State and Local Alerts</b>	Why did the EAS Participants plan the action(s) described above? Why didn't EAS Participants plan any action to provide such multilingual content? Please explain in detail.		
<b>Alerting Procedures</b>	<input type="text"/>		
<b>Multilingual Alerting</b>			
<b>Local Area Plans</b>			
<b>Submit State Plan for FCC Review</b>	<input type="button" value="Back"/>	<input type="button" value="Save"/>	<input type="button" value="Next"/>

<b>ARS</b>			
<b>SECC Governance Structure</b>	<b>Local Area Plans</b>		
<b>Alert Origination</b>	<b>Local Area Plans contain procedures for local officials of the NWS to transmit emergency information to the public during an emergency using EAS.</b>		
<b>Header Codes</b>	Does the state wish to include information from one or more LECCs to its State EAS Plan?		
<b>Operational Areas</b>	<input type="text" value="Yes"/> ▼	Name of Local Area	
<b>Monitoring Assignments: Presidential Alert</b>	<input type="text"/>		
<b>Monitoring Assignments: State and Local Alerts</b>	Enter Local Area Plan information		
<b>Alerting Procedures</b>	<input type="text"/>		
<b>Multilingual Alerting</b>	<input type="button" value="Add another Local Area Plan"/>		
<b>Local Area Plans</b>	Alternatively, you may attach relevant Local Area Plan(s) below.		
<b>Submit State Plan for FCC Review</b>	Attach a file: <input type="text"/>	<input type="button" value="Browse..."/>	<input type="button" value="Upload"/>
	<input type="button" value="Back"/>	<input type="button" value="Save"/>	<input type="button" value="Next"/>

**ARS** FC

SECC Governance Structure	<p style="text-align: center;"><b>Submit State Plan for FCC Review</b></p> <p style="text-align: center;">[State Plan will appear on screen when “Review Your State Plan” is clicked.]</p> <p style="text-align: center;"><a href="#">Back</a>      <a href="#">Review Your State Plan</a>      <a href="#">SUBMIT STATE PLAN</a></p>
Alert Origination	
Header Codes	
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Monitoring Assignments: Presidential Alert	
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<b>Submit State Plan for FCC Review</b>	

**FC** Federal Communications Commission

## **ALERT REPORTING SYSTEM (ARS)**



Thank you!  
You have successfully submitted your state plan.  
You will receive an email confirmation shortly.

**STATEMENT OF  
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket No. 15-94.

The Emergency Alert System helps us get the information we need during local, state, and national emergencies. In this Order, the system gets some needed care and attention. To this end, we establish an online filing system for State Emergency Alert Plans and broadly clarify what categories of information those plans should contain. This is a step forward and will improve the mechanics of filing state plans at this agency. But more work remains. The FCC can do more by acting as a convening force to report and incentivize best practices for emergency alerting. In addition, we need to act with dispatch on the other aspects of this docket that this Order does not address, including false alert reporting. Especially in light of the false emergency alert earlier this year in Hawaii, this work should be our priority.